

# SECTION 8

## GUIDE TO THE RULES OF THE OFFICE OF THE SECRETARY OF STATE (1 A.A.C. 1)

### ARTICLE 1. GENERAL PROVISIONS\_\_\_\_\_

#### **R1-1-101. Definitions**

This Section gives the definitions appropriate to this Chapter. Included are several definitions which appear in the Arizona Administrative Procedure Act (A.R.S. § 41-1001); these appear in italics. The Office felt that, since these terms were used repeatedly, printing them in the text of these rules was important.

The major divisions of the *Arizona Administrative Code* are defined in R1-1-101. However, short definitions appear below, from most general to most specific:

**Title:** General subject area.

**Chapter:** State agency; sometimes a major program within a state agency.

**Subchapter:** Major program division within a state agency.

**Article:** A set of rules on a specific topic.

**Part:** A grouping of rules within an Article by subject matter, groups of people affected, etc.

**Section:** A specific rule.

Please note that not every Chapter has a Subchapter but every Chapter has at least one Article. Not every Article has a Part but every Article has at least one Section. All agency rules will have a Title, Chapter, Article, and Section. Rules of large agencies may also have Subchapters or Parts or both.

#### **R1-1-102. Codification Outline**

There are 20 Titles in the *Arizona Administrative Code*. The Office of the Secretary of State develops the Titles and assigns Chapter numbers to agencies within those Titles. Titles are labeled with Arabic numbers. Currently the Titles in the *Code* are:

1. Rules and Rulemaking
2. Administration
3. Agriculture
4. Professions and Occupations
5. Corrections
6. Economic Security
7. Education
8. Emergency and Military Affairs
9. Health Services
10. Law
11. Mines
12. Natural Resources
13. Public Safety
14. Public Service Corporations; Corporations and Associations; Securities Regulation
15. Revenue

- 16. Tax Appeals
- 17. Transportation
- 18. Environmental Quality
- 19. Alcohol, Horse and Dog Racing, Lottery, and Gaming
- 20. Commerce, Banking, and Insurance

Note that the Office has established two new Titles in the *Code*. Those agencies governing the topics specified by the headings of Titles 19 and 20 will now appear in those Titles rather than in Title 4. These include:

Title 19: Department of Liquor Licenses and Control; Department of Racing; and the Arizona State Lottery Commission.

Title 20: Department of Commerce, Department of Weights and Measures, Office of Tourism, Banking Department, Department of Insurance, and Industrial Commission.

The recodified Chapters were published as part of Supp. 95-1 of the *Code*. In addition, those agencies affected received one copy of their newly recodified rules before the publication of the Supplement. A Notice of Recodification for each Chapter also appeared in the *Register*.

## **R1-1-103. Submission Requirements for Publication and Filing**

- A.** Whenever an agency submits materials to the Office for publication or for filing or both, the agency shall submit one original and four copies. Of these, the original is filed in the permanent rules files in the Office, one copy is used for publication of the Register, one copy is used for publication of the Code, one copy is forwarded to the Governor's Regulatory Review Council, and one copy is returned to the agency along with a letter specifying the date of Register publication. If you are submitting a document for publication only, the Office will use the extra copies of the materials for proofing purposes.
- For notices that are not technically filed with the Office but are only submitted for publication, an agency may submit just a computer disk. However, the Office prefers you to submit at least one paper copy so that, if something happens to the disk or the information contained on it, we have a copy of the material to use. This will also help us ensure that what you submit on a disk matches what is in the paper copy.
  - Notices that are published in the *Register* but which are not "filed" in the Office include:
    - Notice of Rulemaking Docket Opening
    - Notice of Rulemaking Advisory Committee
    - Notice of Delegation Agreement
    - Notice of Public Hearing on Proposed Rulemaking
    - Notice of Public Workshop on Proposed Rulemaking
    - Notice of Public Meeting on Rulemaking Docket
    - Notice of Public Hearing on Delegation Agreement
    - Notice of Agency Guidance Document
    - Notice of Substantive Policy Statement
    - Notice of Agency Ombudsman
    - County Notice of Rulemaking pursuant to A.R.S. § 49-112.
  - The Office encourages each agency planning to submit material to the Office on computer disk to bring in a sample copy on a disk to make sure that the Office can upload the material with no trouble. If we have problems reading the disk, we can then work the problems out (hopefully!) before you actually submit materials to us.
  - We usually have no trouble reading disks submitted in Word Perfect 5.1 format prepared on an IBM computer or clone. If you use Word Perfect 4.2, 5.0, or 6.0, we can probably still upload your material. However, if you prepare your rules on a Macintosh computer, we may have trouble reading your disks.

- We should be able to read disks using MicroSoft Word; however, the text must be saved in RTF (Rich Text Format) for us to read it properly.
- We can also read many other software programs. Once in a while we have some problems with a disk or with a software program; that is why we ask that you submit a disk to us in advance so that we can be sure we can read your disks.
- Please, when submitting disks, always specify the material on the disk and your agency name. Include the software program you used, complete with the version number. We cannot filter a disk unless we know the software filter we need to use.

**B.** All pages of the original document and all copies shall be printed on only one side. When we must copy documents or send them to be imaged, microfiched, or microfilmed, printing on the back side is usually missed. We therefore require printing on one side only.

Each page shall have margins of one inch on each edge of the page. Copy machines, scanners, and similar machines tend to have a portion of the page close to the edge which does not copy or scan. Having the one-inch margin solves this problem.

**C.** Each original and all copies shall be clear and legible. Make sure your computer printer is working properly when printing your original. Also check the photocopy machine before making your copies to ensure the machine is in proper working order. Clean the glass too; specks of dirt on the glass may make your copies illegible. Any original or copy that is partially or completely illegible will be returned to the agency.

Appendices, Exhibits, Illustrations, and Tables shall be camera-ready when submitted with any type of rule-making package. The Office will return to the agency any rulemaking package containing anything (either text or supplementary material) that is not camera-ready when submitted.

No font size smaller than 9 point shall be used in the rules. Fonts smaller than 9 point are difficult to read and therefore difficult to scan or image. When we try to scan or image small type sizes, the print tends to run together making proofreading or viewing the imaging and then copying that image very difficult. Font sizes larger than 12 point take up extra room on the page and thus waste paper.

**D.** When filing your rulemaking packages with the Office, only one Chapter may be placed on a single Notice. The Office must maintain the original of each rulemaking package in our files. We have found that, when we file rules by Title and Chapter number, retrieval of those rules is quick and easy. If we filed the rules simply by agency, we would have to search through a lot of rules packages filed by an agency looking for the specific one requested. If you place two or more Chapters on a single Notice, we won't know where we are to file it. We also do not have the budget to make extra copies in order to file the whole package under each Chapter - nor do we have the money to purchase extra file cabinets to handle the additional files the duplicated rules packages would require.

The Office will therefore return to you any rulemaking package that contains more than one Chapter per Notice so that you can separate the material into separate packages per Chapter.

**E.** Agencies may file only one Notice per Chapter for each type of rulemaking activity, unless the agency has requested and received permission from the Office to use either Subchapters or Parts or both. By type of rule-making activity, we mean proposed rulemaking, supplementary rulemaking, final rulemaking, summary rule-making, emergency rulemaking, and exempt rulemaking. In addition, we publish in the Register, within each type of rulemaking, the materials in Title and Chapter number order. This gives some semblance of order within the Register. If the Office receives a rulemaking package with more than one Chapter in it, we will return the package to you with instructions to split it. This will delay your rulemaking. Remember that the Office deals with over 100 agencies - filing by Title and Chapter number makes much more sense for us when having to retrieve rule packages from the files..

This subsection allows the use of Subchapters and Parts to further subdivide your rules and enable you to amend your rules by smaller amounts than Chapters. Subchapters and Parts are new to the *Arizona Administrative Code*.

- A Subchapter is a division between Chapter and Article which covers a particular subject area or a

particular group of people that an agency governs or regulates. Subchapters are labeled with capital letters.

- A Part is a division between Article and Section and simply further divides an Article. Parts are also labeled with capital letters.

The Office director and editors will be happy to work with any agency wishing to divide its rules into either Subchapters or Parts. Remember, however, once you use a Subchapter, that Subchapter remains in your rules and you cannot arbitrarily establish a new Subchapter with overlapping Sections with the first Subchapter just to accomplish a later rulemaking.

An agency must first receive approval from the Office to further subdivide its Chapter so that the Office can keep a record of the subdivisions. If an agency divides its Chapter into Subchapters, the rules may be amended by Subchapter. If an agency uses Parts, the agency may amend its rules by Article. Remember, once you have established Subchapters or Parts and used them, you cannot arbitrarily change the Subchapter or Part for another rulemaking. This means that, if in one rulemaking you divide your Chapter into Subchapters A, B, and C and each one has three Articles with specific headings for those Subchapters and Articles, you cannot simply re-divide your rules into different Subchapters with new headings or change the Article around for a later rulemaking unless you go through rulemaking to make those changes. Subchapters and Parts are just like the other major divisions of the Code; once established and used, they may only be changed by rulemaking activity.

The Office is allowing the use of Subchapters and Parts to allow agencies to amend their rules by smaller divisions than by Chapter. In addition, the use of Subchapters and Parts allows agencies to better divide their rules to make them clearer and easier to follow. Rules by necessity are more detailed than the statutes and therefore should have more divisions allowed than do the statutes.

#### **R1-1-104. Submitting Material for Publication**

- A. The Office has established deadlines for the submission of material for publication in the *Register*.

There are two different deadlines: If an agency submits a rulemaking package only in paper format, there is a four-week delay between the deadline for submission and the date the Office publishes the *Register*. If an agency submits a rulemaking package in both disk and paper format, there is a three-week delay between the deadline for submission and the date the Office publishes the *Register*.

For notices the Office must publish in the *Register* but which do not include the text of rules, the Office will follow the three-week delay between deadline and publication. These include notices of agency ombudsman, rulemaking docket openings, public meetings or workshops on proposed rulemaking, agency guidance documents, substantive policy statements, delegation agreements, and the other such notices referenced in 1 A.A.C. 1.

- B. Notices submitted for publication only (Any notice not accompanied by rules) may be submitted to the Office on computer disk only, although the Office recommends that a paper copy be submitted too so that we can ensure that we publish the correct material.
- C. Again we urge you to submit a sample computer disk to the Office before you submit material for publication. We want to ensure that your materials are published as quickly as possible; you may experience unnecessary delays if we cannot read your disk.

#### **R1-1-105. Forms for Publication or Filing**

- A. You must submit the correct forms when submitting materials to the Office for publication or filing or both. This includes the notice form, the agency certificate form, and the agency receipt. These forms are specified throughout the Chapter. Samples of these forms can be found in Section 10 of this manual.

We no longer use preprinted, fill-in-the-blank forms. Please take the sample forms, which were handed out at the training sessions and which also appear in Section 10 of this manual, input the information as shown, and then use this as your master when preparing the forms for publication or filing. All questions must appear just as they appear on the samples; you cannot eliminate any question, even if it doesn't apply to you. And all questions must be answered.

You may not use the phrase “See attached page” or a similar phrase to answer any question. Attachment pages are not allowed. You will need to answer fully each question on the Notice in numerical order. Take as much room and use as many pages as you need to place the questions and the answers in the proper order. Notice forms containing any attachment pages or items out of their proper order will be returned to the agency.

- B.** The agency certificate is a new requirement. Because the rules are no longer going to be certified by the Attorney General, and because there is no longer a place on the notice form for the signature of a designated person from the agency submitting the rules, the Office needed a form which would indicate that the agency's chief executive officer or designee had viewed the rules. The agency certificate is the result. A sample of this form appears in Section 10 of this manual.

The agency certificate must include all of the following items. These items must appear on the form in the same numbered order.

1. The agency name;
2. The Chapter heading;
3. The Code citation for the Chapter;
4. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rule-making, in numerical order;
5. The signature, in ink, of the agency chief executive officer or designee, attesting that the material being submitted is a true and correct version of the rule adopted by the agency.
6. A statement that no changes have been made since the Council approved the rule, if applicable.

- C.** A Council certificate of approval must be filed with all final rules subject to Council review.

1. If the Council submits the material to the Office for the agency, the certificate shall be attached to the rules.
2. If the agency submits the rules, the certificate must be attached to a sealed container or envelope containing the rules as approved by the Council.
3. The Office shall not accept any final rulemaking package from an agency if the Council certificate of approval is missing or altered in any way or if the seal on the container or envelope is broken.

- D.** An Attorney General certificate of approval must accompany each final or emergency rulemaking subject to Attorney General review. This certificate shall be attached to the original document in the rulemaking package. The Office cannot accept any final or emergency rulemaking package subject to Attorney General review unless the certificate of approval is attached to the original document in the package. Rules approved by the Attorney General will be sent directly to the Office. Therefore, please make sure that you have included the agency certificate and the receipts when you send material to the Attorney General.

- E.** Any rules exempt from both Council and Attorney General review must be accompanied by an agency certificate as stated in subsections (B)(1) through (5). The certificate shall also contain a statement specifying why the rules are exempt from Council and Attorney General approval. You must also include the statutory or constitutional or legal provision specifying the exemption.

- F.** Make sure that your notice forms are completely and correctly filled out. The Office will return to you any rule package containing incomplete or incorrect forms. The Office would rather not delay your rulemaking - please check your rules before submitting them to the Office.

- G.** On each certificate form, the agency's chief executive officer must sign in the designated place. The officer's name and title shall appear under the signature and the date the officer signed the certificate shall be noted. If a designee signs the form, the designee's name and title shall appear under the signature. The Office will not accept any certificate form containing one person's signature and another person's typed name.

EXAMPLE: If the Office receives an agency certificate which has the following, we would not accept the materials for publication or filing:

*Jane Doe* for

John Smith, Director

However, if the Office receives an agency certificate which has the following, we would accept the materials for publication or filing:

John Smith

John Smith, Director

Also remember to specify the date the agency's officer signed the certificate. If the Office receives a form without a date specified, the Office will return the material to you.

### **R1-1-106. Receipts**

Any document submitted to the Office pursuant to the requirements of the Arizona Administrative Procedure Act for publication and filing must be accompanied by two copies of an agency receipt form. We will date stamp both of them after checking the materials to be sure they are complete; we will then return one copy to you and will keep one copy with the original copy of your material. A sample of the agency certificate form appears in Section 10 of this manual.

The agency receipt must list:

1. The agency's name;
2. The Title, Chapter, Subchapter (if applicable), the Article, the Part (if applicable), and the Sections that are contained in the rulemaking package and the rulemaking action occurring on each.

If the agency's receipt is for a notice that does not include the text of rules, item #2 may be answered with the subject of what is being submitted.

We ask that you also list, under the words "Agency Receipt" at the top of the page, the type of document the receipt is accompanying. That way, if the receipt is separated from the material by accident, we can find the correct document to which the receipt belongs.

### **R1-1-107. Filing Location**

The Office is physically located on the first floor of the State Capitol Executive Tower. We can be found down the southwest corridor - look for the first counter on your left down that corridor. However, the mailing address is on the 7th floor of the same building. Please note that, if you send items through the mail, either the U.S. mail or the state messenger delivery services, the Public Services Department may not receive it until the day after it arrives on the 7th floor. When in doubt, hand-deliver the material to the Office on the first floor.

### **R1-1-108. Editing and Relabeling by the Office**

The Office has the authority to edit rules for grammar, punctuation, gender-specific language, incorrect Section numbering, incorrect subsection labeling, definitions not in alphabetical order, capitalization, and other nonsubstantive errors. None of these changes made in the editorial process can be substantive. The Office does not have the time to notify each agency individually when this editing is done. Therefore, we suggest that you read the published version of your rules carefully in order to note the changes made. If you wish to receive a copy of your edited published rules on disk, you will have to pay the \$5-per-disk fee specified in R1-1-113. If, as we are preparing the text of your rules for publication in either the *Register* or the *Code*, we find we don't understand something, we will call you for clarification. That way, we can publish the rules correctly.

### **R1-1-109. Correction of Errors**

The Office can correct nonsubstantive errors you make in your rules when we publish the material. We may catch some of these errors when proofing the material and you may catch some of them and notify us. We do ask that any notice you give us about errors to correct be put in writing. That way we have a record that we can place with the rules in question.

- A. Once you have submitted a proposed rulemaking package to the Office, you may correct substantive errors only by the filing of a supplemental rulemaking package specifying the change. We begin work on the *Register* immediately after receiving your material in the Office. Because several people are involved in each issue of the *Register*, and because we are receiving more and more rules from agencies, we cannot stop what we are doing and correct the issue of the *Register*. Nor can we "pull" a proposed rulemaking package once it has been submitted to us. In this instance, you must prepare and file a Notice of Termination of Rulemaking.

- B.** Once you have filed a final, summary, or emergency rulemaking package with the Office, a manifest typographical error may be corrected by your filing the corrected page with the Office accompanied by a letter from the agency's chief executive officer requesting us to make the change. The letter must also specify why you believe the error is a manifest typographical or clerical error.

Errors considered substantive in nature must be corrected by the regular rulemaking process. If you request a change of what you consider to be a nonsubstantive error and we are unsure whether the error is substantive or nonsubstantive, we will contact the Attorney General's Office for clarification.

- C.** If you discover an error in your rules as published in the *Code* or the *Register*, you must notify us in writing as soon as possible. We will then check the rulemaking package as you filed it with us. If the error was in the original document you filed with the Office, you must go through the regular rulemaking process to correct it. If the error is a manifest typographical or clerical error, you must follow the procedure explained in subsection (B) above. We will re-print your rules as specified below.
- D.** If the error is our mistake or you notify us about a manifest typographical or clerical error, we will reprint the information with the corrections in the next available issue of the *Register* or the *Code* provided we feel the error would tend to confuse or mislead the reader. If we feel the error would not tend to confuse or mislead the reader, we will not reprint the rules in the *Register* but we will reprint the rules in the *Code* when next you amend that particular Chapter.

### **R1-1-110. Effective Dates**

Rules are effective upon filing in the Office unless a later effective date is specified or required by law. If you do specify a later effective date, please also explain the reason for the delay in effective date. No rule filed with the Office can be retroactively effective. In other words, a rule cannot become effective until it is filed with the Secretary of State.

### **R1-1-111. Agency Liaisons and Rule Specialists**

- A.** Each agency shall designate a liaison to represent the agency in the submission of rulemaking documents to the Office and to work with the Office should problems arise with that agency's rules. You are to notify the Office in January of each year with the name, title, address, and telephone number of the designated liaison. If changes occur during the year, you are to notify the Office as soon as possible after the change has occurred.

Some agencies have multiple divisions. Those agencies may, if they wish, designate a liaison for each division that submits rules to the Office.

- B.** Many agencies assign a specialist for a particular rule or set of rules - someone with expertise in the subject matter. That person is generally listed on the Notice as the person the public may contact with questions or comments. This is perfectly acceptable. Make sure that the person's name, title, address, and telephone number are listed on the Notice in the proper place.

### **R1-1-112. Public Inspection of Documents; Copies**

- A.** All documents filed with the Office shall be available for public inspection during our normal office hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays.
- B.** Any person may request copies of documents from the Office during normal office hours.
- C.** The Office currently has a 10¢-per-page copy charge for documents filed in the Office. Any person wishing a copy of any record filed in the Office shall pay this statutorily designated fee, whether the person is a government employee or a member of the public.
- D.** When the Office certifies documents for an individual, we must charge a statutory fee of \$3.00 for each certification. In addition, the individual must pay the 10¢-per-page copy fee for the copied material being certified.
- E.** You must pay the requisite fee in advance before copies will be made or materials certified.

### **R1-1-113. Fees**

- A.** This subsection lists the fees for various ways you may purchase the *Register*.

1. The fee for the annual subscription is based on anticipated costs in producing a full-text *Register* on a weekly basis.
  2. The fee for a single issue is the annual subscription price divided by 52 issues and rounded to the next highest whole dollar.
- B.** This subsection lists the fees for various ways you may purchase the *Code*.
1. The price for the full set purchased altogether at one time is less than the sum of all the parts of the *Code* purchased individually. We also throw in the eight binders needed to house the *Code*. We base our printing run of each supplement on the number of subscribers we have to the full *Code*. Subscribers to the full *Code* also receive their copies of each supplement first before we start selling the individual Chapters and Titles to the public.
  2. Subscribers to the full *Code* must pay an annual subscription fee to receive the supplements. Because our print run is based on the number of these subscribers, we give them a break on the price. Many times, the individual cost of a supplement exceeds the annual subscription which covers four supplements.
  3. The prices of the individual Chapters in the *Code* are based on the page count of each Chapter.
- C.** The Office makes the *Code* available on computer disk. At the present time, we can sell the information in either FrameMaker format or RTF format. Please note, however, that any illustrations, tables, or other material we've had to scan into your rules or create as a graphic will not appear on the disks because this material does not translate.
- Due to A.R.S. § 38-121.03, the commercial price of the *Code* on disk is substantially more than the personal-use price. We place one Chapter on each disk (a few Chapters are so lengthy that they take two disks) whether you are purchasing the information for personal or commercial use.
- D.** Binders for housing the *Code* are available from the Office for \$5.00 each.
- E.** This guide to 1 A.A.C. 1 is free to any state agency (one per agency) directly involved in the rulemaking process. Members of the public and other agency personnel must pay \$5.00 for the guide, which helps us to defray printing and mailing costs.
- F.** Anyone can subscribe, free of charge, to our quarterly newsletter, *Ruling Arizona*. (The title of this newsletter is a take-off of the movie title, "Raising Arizona.") If you wish to subscribe, please send your name, agency, address, and telephone number to the Office. We will add you to our mailing list. You may also phone in this information.
- G.** Any person purchasing any materials for which we charge a fee must pay the fee in advance. We accept cash (in person only), checks, money orders, and, for governmental agencies, purchase orders or fund transfer forms. We do not recommend sending cash through the mail.

#### **R1-1-114. Official Distribution of the Register and the Code at No Charge**

Because of the costs of printing and distributing the *Code* and the *Register*, only specific agencies receive copies of either publication free of charge. These agencies are specified in this Section. All other agencies must pay the specified fees for the material.



## ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER\_\_\_\_\_

### **R1-1-201. Publication Schedule and Deadlines**

The Office has established deadlines for submission of materials for publication in the *Register*. These deadlines enable the Office to get each issue of the *Register* input, proofed, and printed. The larger the issue of the *Register*, the longer it's going to take the Office to prepare it for publication and print it. Because we begin work on the *Register* as soon as the material is submitted to us, we will not "pull" an item from publication simply because you made a mistake in submitting it to us. If you erroneously submit a proposed rule, you will have to submit a Notice of Termination of Rulemaking. There is no means to terminate a summary, exempt, final, or emergency rulemaking except to go through rulemaking again. Please make sure that what you are submitting to the Office is correct.

We will not waive any deadlines for any reason. Please check the deadlines closely. You are responsible for submitting the material to us on or before the deadlines specified. Please note that you do not have to wait until the Friday deadline to submit materials to us. We will accept the material on Monday, Tuesday, Wednesday, and Thursday too, provided the day you wish to submit the material to us is not a state holiday.

The current deadline schedule appears in each issue of the *Register*. If you have a deadline schedule that is out-of-date or missing, please contact the Office for a new schedule.

### **R1-1-202. Contents**

The contents of the *Register* are specified by law in A.R.S. § 41-1013. Another law, A.R.S. § 49-112 specifies three other notices that the Office must publish in the *Register* too, but these three notices are for counties only. The Office will only publish in the *Register* those items mandated by law to be published in the *Register* and those documents pertaining to rulemaking in the state of Arizona. Please note that the Office will publish all categories listed below, provided documents are submitted to the Office for publication in these categories.

During 1995, the *Register* will contain rulemaking items initiated under the Administrative Procedure Act before January 1, 1995, as well as those items initiated under the APA after January 1, 1995. Those rulemaking items initiated before January 1, 1995, will be published as they were required to be published under the old law. Those items initiated after January 1, 1995, will be published as required by the new law. This means that rules initiated before January 1, 1995, will be noticed only; the full text of these rules will not be published.

The *Register* in 1995 contains the following items:

#### Rulemakings Initiated before January 1, 1995

- Proposed Rules

- Adopted Rules

- Emergency Rules

- Termination of Rules

#### Rulemakings Initiated after January 1, 1995

- Notices of Proposed Rulemakings

- Notices of Supplemental Proposed Rulemakings

- Notices of Terminations of Rulemakings

- Notices of Final Rulemakings

- Notices of Emergency Rulemakings

- Notices of Summary Rulemakings

- Notices of Adopted Summary Rulemakings

- Notices of Exempt Rulemakings

#### Other Information

- County Notices of Rulemaking Pursuant to A.R.S. § 49-112

Notices of Rulemaking Docket Openings  
 Notices of Formal Rulemaking Advisory Committees  
 Notices of Proposed Delegation Agreements  
 Notices of Public Hearings on Proposed Rulemakings  
 Notices of Public Workshops on Proposed Rulemakings  
 Notices of Public Meetings on Open Rulemaking Dockets  
 Notices of Public Hearing on Proposed Delegation Agreements  
 Notices of Agency Guidance Document  
 Notices of Agency Substantive Policy Statements  
 Notices of Agency Ombudsmen  
 Governor's Regulatory Review Council Agendas and Summaries of Council Actions  
 Governor's Executive Orders, Proclamations, and Statements Filed by the Governor in Granting a Com-  
 mutation, Pardon or Reprieve, or Stay or Suspension of Execution Where a Sentence of Death is  
 Imposed  
 Summaries of Attorney General Opinions  
 Governor's Appointments of State Officials and Members of Boards and Commissions  
 Deadline Dates for both the Secretary of State's Office and the Governor's Regulatory Review Council

### **R1-1-203. Publication Requirements**

Each rulemaking package submitted to the Office shall:

1. Be typewritten or produced on computer or word-processing equipment; be on 8 1/2 by 11 inch white paper; be printed on one side of the page only; and be double-spaced. Neither the original nor any of the copies shall be hole-punched. The original shall not be stapled but shall be either paper-clipped or binder-clipped.  
 All pages of the original document and all copies shall be printed on only one side. The Office requires printing on only one side for many reasons: scanning, photocopying, and microficheing or imaging for historical purposes. In each case, the work goes much faster if the material is printed on only one side. There is also no chance of pages being forgotten because someone did not see printing on the back side.
2. Have a one-inch margin on all sides of the page. The Office must have an adequate margin in order to photocopy the material or to microfiche or image it for historical purposes.
3. Specify the Code citation, Code divisions, and the specific Sections involved. Subsections shall not be specified on the Notice form. Articles shall only be listed if they are new Articles, if the Article is being totally repealed, or if the headings or numbers of the Articles are being amended.
4. Have underlining indicating new language. Underlining shall not be used for any other purpose in the text of rules. If you are only adding entire new Sections without taking any other kind of rulemaking action on other Sections, you do not have to underline the text of the new Sections. However, the Section numbers and headings in the table of contents for the Chapter shall contain the appropriate underlining indicating the new Sections. If you renumber one or more Sections, amend one or more Sections, or repeal one or more Sections in addition to adding new Sections, all new language in the text shall be underlined.
5. Have a table of contents for the Chapter which shows the Title, its label and heading; the Chapter, its label and heading; the Subchapters, their labels and headings, if applicable, and if the Subchapters contain Sections undergoing rulemaking in this package; the Articles which have Sections or Parts that are undergoing rulemaking in this package, their labels and headings; the Parts, their labels and headings, if applicable, if the Chapter has Parts and the Parts have Sections which are undergoing rulemaking in this package; and the Sections on which rulemaking activity is occurring. If any of these divisions do not have rulemaking occurring in this package, they shall not be listed in this table of contents. No page numbers shall appear in this table of con-

tents except the required page number at the bottom of the page indicating the appropriate pagination within the entire rulemaking document. The divisions of the Code shall be listed in the table of contents in the same order as they would be if published in the Code. Thus Sections shall appear in numerical order within their Parts (if applicable) which shall appear in order within the Articles, which shall appear in order within the Sub-chapters (if applicable), which shall appear in order within the Chapter.

6. Be consecutively numbered, from the first page of the Notice through the last page of text. Additional documents that must be filed with the rules but which are not part of the Notice or the text of the rules shall not be paginated as part of the rulemaking document.
7. Be compiled in the following order, before you bring or mail them to the Office:
  - a. The Notice form, including the preamble which is part of the Notice;
  - b. The table of contents;
  - c. The text of the rules, including supplementary material (Appendices, Exhibits, Illustrations, or Tables) which are included with the text of the rules;
  - d. Incorporated by reference material (compiled with the original only and only with final, emergency, or exempt rules);
  - e. Other items required by law to be filed with the rules, such as the Concise Explanatory Statement with final rules.

#### **R1-1-204. Indices to the Register**

Every six months, the Office will publish two semi-annual indices to the *Register*.

1. The first index will contain the rulemaking activity occurring in the issues from January through June and from July through December.
2. The second index will contain the governor's information, the index to the summaries of attorney general opinions, and a full listing of the governor's appointments of state officials and members of the boards and commissions.

Each of the two indices will sell for \$5.00 a copy. Persons who subscribe to the *Register* on an annual basis will receive both indices as part of their subscriptions. All other persons must purchase the indices.

#### **R1-1-205. Notice of Rulemaking Docket Openings**

Whenever an agency begins to consider a rule or a topic on which it may develop rules, the agency must open a rulemaking docket. At the same time that the agency opens the rulemaking docket, the agency must also submit a Notice of Rulemaking Docket Opening to the Office for publication in the *Register*.

There is no precise or identical way to open a docket from agency to agency. Some agencies simply label a file folder with the subject or rules under consideration. Some agencies establish a rulemaking docket number. Some agencies must work with their governing boards in order to open a docket. The procedure for your agency will depend on the hoops through which you must jump in order to officially open a rulemaking docket. Once you have opened that docket, you must prepare a Notice of Rulemaking Docket Opening for publication in the *Register*. We call this a "Rulemaking" Docket Opening because there are agencies who open other kinds of dockets. Having the word "Rulemaking" as part of the heading of this Notice separates this docket from those other kinds of dockets, notices of which we do not publish in the *Register*.

When preparing the Notice of Rulemaking Docket Opening, place the heading NOTICE OF RULEMAKING DOCKET OPENING in all capital letters one inch from the top of the page and center it on the line. If the font you are using requires you to take two lines, that's acceptable. Two lines (one double-space) below the Notice heading shall appear the name of your agency which shall also be centered on the line. The remainder of the Notice shall contain information in a specified, numerical order. A sample of the Notice appears in Section 10 of this manual with the specific information in the correct numerical order. We have also explained some of this information below:

1. In the place where you list the Chapter, its label and heading, please specify the name of your agency as it appears in the *Arizona Administrative Code*. You can use the price list to obtain this information too. If your

agency is one with more than one Chapter, remember to always list the name of your agency first followed by a dash followed by the rest of the Chapter heading. Chapters must always show the name of the agency.

In the place for Articles, Parts, and Sections, please do not use the term “et seq.” Please specify the first and last numbers in the series. Do not specify any Sections, Parts, or Articles on which you are not opening rule-making consideration. In other words, if you specify R1-1-201 through R1-1-208, then you must consider every Section in that series. If one of these Sections has no text currently, it should not be listed unless you are considering adding text at that Section number. If you don’t know the specific Section numbers, you may insert “Unknown at this time” instead of listing specific Section numbers.

2. This subsection is self-explanatory. If you don’t establish a docket number, you may omit that portion of the question.
3. The question about the citation to all previously published notices relating to the rulemaking must appear because it is required by the APA. In many instances, you will answer this question “None published.” If you had previously opened a docket or proposed rulemaking on some of the Sections specified in this docket, you should list those Notices here. It’s also helpful if you specify the type of Notice for which you are listing the citation.
4. This subsection is self-explanatory.
5. This subsection is self-explanatory. However, you must note that the APA requires you to list the time during which you will accept written comments and the time and place where oral comments may be made. Therefore, if you do not answer this question, we will return the Notice to you as incomplete. This will delay the publication of your Rulemaking Docket Notice.
6. For question #6, please specify the timetable for action on this proceeding. If you do not know a specific timetable, please so specify. If you do not answer this question, we will return your Notice to you as incomplete. This will delay the publication of your Rulemaking Docket Notice.

You must answer all questions. How you answer those questions is pretty much up to you within the limits we've specified above for Office requirements.

### **R1-1-206. Notice of Formal Rulemaking Advisory Committee**

Agencies sometimes create rulemaking advisory committees to help in preparing rules for the rulemaking process. If your agency creates such a committee, the APA now requires you to publish notice of the committee in the *Register*. This Notice is actually quite short.

One inch from the top of the page shall appear the heading NOTICE OF FORMAL RULEMAKING ADVISORY COMMITTEE in all capital letters; this heading shall also be centered on the line. Two lines (one double-space) below the Notice heading shall appear the name of your agency, also in all capital letters and centered on the line. Then shall appear three questions which all must be answered.

1. The specific rules or subject matter that the committee is formed to discuss. If you do not know the specific Section numbers, you may specify “Unknown.” You should know the subject area even if you don’t know the specific Sections.
2. The names of the committee members. We do not need, nor will we print, addresses of committee members. If you wish to specify the job titles and companies or agencies represented by the members, you may do so and we will print that information. We will not print addresses (either business or residential) for safety reasons.
3. The date the committee was formed. Sometimes this will be a specific date. Other times you may only know the month and the year your agency formed the committee. If the committee has been around for a long time and you don’t know the month, then specify just the year.

If you establish a formal rulemaking advisory committee, you must prepare and submit for publication the Notice of Formal Rulemaking Advisory Committee each year.

### **R1-1-207. Supplemental Notices on Proposed Rules**

If, after you have formally proposed a rulemaking, you decide that the proposed rule requires substantial change due to public comment or internal review, you must prepare and submit to the Office for *Register* publication a supplemental notice. This Notice will be discussed more fully in the section of this *Guide* relating to proposed rules.

### **R1-1-208. Notice of Proposed Delegation Agreements**

Some agencies have been given legislative authority to delegate functions, powers, or duties to political subdivisions within Arizona. When any agency proposes a delegation agreement, the agency must prepare and submit to the Office for *Register* publication a Notice of Proposed Delegation Agreement. The Notice shall include the heading NOTICE OF PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line one inch from the top of the page. The Notice shall then include the following questions:

1. The name of the agency proposing the delegation agreement. Please list the legal name of your agency. You can get this from the Code price list or by looking up in the A.R.S. the enabling legislation for your agency.
2. The name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated. This may be a town, township, city, village, county, or any other political subdivision of Arizona.
3. The name, address, and telephone number of the person to whom questions and comments may be directed. Please include the zip code for this person and also list the fax number if you wish.
4. A summary of the delegation agreement and the subjects and issues involved. Please summarize the agreement and explain the necessity for it.
5. A statement that copies of the proposed delegation agreement may be obtained from the agency and any pertinent information on how persons may obtain copies. If there is a charge for the materials, please specify that here. If there is a specific office from which someone can obtain the information, specify that here also. If you will take orders over the phone or by fax, you should specify that too.
6. A schedule of public hearings on the proposed delegation agreement. You should schedule public hearings before you submit this Notice to the Office, but remember to schedule them far enough in the future so that you wait the proper amount of time between publication of the Notice in the *Register* and the date of the hearing (at least 30 days after publication of the Notice).

Please follow all other procedures specified in A.R.S. § 41-1081. The Office cannot help you write a delegation agreement. If your agency has delegation agreements and you are unsure of the process, you should contact another agency which also does delegation agreements. Together you may be able to resolve the issues.

### **R1-1-209. Notices of Public Hearings, Public Workshops, or Other Meetings**

- A. In the event that you decide that your agency needs to hold a public hearing, a public workshop, or another type of meeting on a proposed rulemaking, a rulemaking docket opening, or a proposed delegation agreement, you must prepare a Notice of Public Hearing, a Notice of Public Workshop, or Notice of Meeting (specify the type of meeting) for publication in the *Register*.
- B. The specific Notice form you are to use for these hearings, workshops, or other meetings is outlined below:
  1. For a hearing on a proposed rulemaking: One inch below the top of the page shall appear the heading NOTICE OF PUBLIC HEARING ON PROPOSED RULEMAKING, centered on the line. This Notice shall also contain numbered questions as follows, keeping in mind that the questions shall be labeled with Arabic numbers instead of the small letter labels as shown:
    - a. The name of the agency: please specify the correct name of the agency, using the name of your agency as found in the Code price list or in statute.
    - b. The various divisions of the *Code* which pertain to this rulemaking. Please use the division name, its number or letter label, and the correct heading of the division. For agencies that have more than one Chapter, remember that the Chapter heading must contain the name of the agency, a dash, and the rest of the Chapter heading.
    - c. When listing the Section numbers, do not use “et seq.” but instead specify the beginning and ending Section number. Do not list any Section numbers on which you are not taking rulemaking action.

- d. The Register citation to the original notice and any supplemental notices published in the *Register*. You should specify the type of Notice for which you are listing the Register citation.
  - e. The date, time, and location of the public hearings. If your agency requires special information about the hearings or oral proceedings, please specify that special information below the hearing information.
  - f. The name, address, and telephone number of agency personnel to whom questions and comments on the rules may be addressed. If you wish comments to be sent by fax, please also specify the fax number.
2. For a workshop on a proposed rulemaking: One inch below the top of the page shall appear the heading NOTICE OF PUBLIC WORKSHOP ON PROPOSED RULEMAKING, centered on the line. This Notice shall also contain the same numbered questions as in subsection (B)(1) above, keeping in mind that the questions shall be labeled with Arabic numbers instead of the small letter labels as shown.
  3. For a workshop on a proposed rulemaking: One inch below the top of the page shall appear the heading NOTICE OF PUBLIC MEETING ON OPEN RULEMAKING DOCKET, centered on the line. This Notice shall also contain the same numbered questions as in subsection (B)(1) above, keeping in mind that the questions shall be labeled with Arabic numbers instead of the small letter labels as shown.
  4. For a public hearing on a proposed delegation agreement: One inch below the top of the page shall appear the heading NOTICE OF PUBLIC HEARING ON PROPOSED DELEGATION AGREEMENT, centered on the line. This Notice shall also contain the same numbered questions as in subsection (B)(1) above, keeping in mind that the questions shall be labeled with Arabic numbers instead of the small letter labels as shown.

Examples of each of these Notices appears in Section 10 of this manual.

### **R1-1-210. Notices of Agency Guidance Documents and Substantive Policy Statements**

When your agency has a document which you use to provide information to “guide” people, you must submit to the Office for *Register* publication a Notice of Agency Guidance Document. When your agency develops a substantive policy statement, you must submit to the Office for *Register* publication a Notice of Substantive Policy Statement.

- A. For a guidance document, the words NOTICE OF AGENCY GUIDANCE DOCUMENT must appear one inch from the top of the page, centered on the line. Two lines (one double-space) below the Notice heading must appear the name of your agency. Please use the statutorily designated name of your agency. (Not all agencies are created with the word “Arizona” as part of their name. We only publish the rules of Arizona agencies; therefore, if “Arizona” is not part of your statutorily designated agency name, do not use it.) Then list the questions as indicated below and make sure you answer each question:
  1. Title of the guidance document. Please give its exact title, including any subtitles the document has. Also specify the document number or the number by which the document is referenced.
  2. The date of the publication of the guidance document and its effective date if different from the publication date. Please be specific when listing the date; we need the month, day, and year.
  3. Summary of the contents of the guidance document. Please give a short, concise summary of the guidance document's contents.
  4. A statement as to whether the guidance document is a new document or a revision. If you have revised the guidance document since it was first published and you specify all revision dates, we will publish that information.
  5. The name, address, and telephone number of the person to whom questions and comments about the guidance document may be directed. Please also give the fax number if you will accept comment via a fax machine.
  6. Information about where a person may obtain a copy of the guidance document and the costs for obtaining the document. Please be specific; if a particular department is the source of the document, direct the person to that department rather than to the department as a whole. The more information you give, the faster

someone in the public may get hold of a copy of it, which is partly the purpose for the publication of the Notice.

**B.** For a substantive policy statement (which is defined in A.R.S. § 41-1001), the words NOTICE OF SUBSTANTIVE POLICY STATEMENT must appear one inch from the top of the page, centered on the line. Two lines (one double-space) below the Notice heading must appear the name of your agency. Please use the statutorily designated name of your agency. (Not all agencies are created with the word “Arizona” as part of their name. We only publish the rules of Arizona agencies; therefore, if “Arizona” is not part of your statutorily designated agency name, do not use it.) Then list the questions as indicated below and make sure you answer each question:

1. Title of the substantive policy statement. Please give its exact title, including any subtitles the policy statement may have. Also specify the policy number or the number by which the policy statement is referenced.
2. The date of the issuance of the substantive policy statement and its effective date if different from the issuance date. Please be specific when listing the date; we need the month, day, and year.
3. Summary of the contents of the substantive policy statement. Please give a short, concise summary of the policy statement's contents.
4. A statement as to whether the substantive policy statement is a new statement or a revision. If you have revised the policy statement since it was first issued and you specify all revision dates, we will publish that information.
5. The name, address, and telephone number of the person to whom questions and comments about the substantive policy statement may be directed. Please also give the fax number if you will accept comments via a fax machine.
6. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement. Please be specific; if a particular department or division is the source of the policy statement, direct the person to that department or division rather than to the agency as a whole. The more information you give, the faster someone in the public may get hold of a copy of it, which is partly the purpose for the publication of the Notice.

#### **R1-1-211. Summary of Council Action**

After each meeting of the Council, the Council shall submit to the Office a summary of Council action on each adopted or summary rule.

#### **R1-1-212. Agency Ombudsman**

In January of each year, agencies with 100 or more employees shall submit the name of their ombudsman to the Office for *Register* publication. These names shall be submitted on a Notice form with the heading NOTICE OF AGENCY OMBUDSMAN in all capital letters, centered on a line one inch from the top of the page. The following questions shall also appear on the Notice:

1. The agency's name: please use the statutorily designated name for your agency;
2. The ombudsman's name;
3. The ombudsman's title;
4. The ombudsman's office address including zip code;
5. The ombudsman's office telephone number and facsimile number, if available.

## ARTICLE 3. ARIZONA ADMINISTRATIVE CODE\_\_\_\_\_

### **R1-1-301. Development of the Code**

This Section explains the development of the *Arizona Administrative Code*. Whenever the Office believes that new Titles are necessary or a rearrangement of existing Titles and Chapters is necessary, the Office shall make the appropriate changes. The Office shall also notify each agency whose rules are affected by the rearrangement or the addition of new Titles.

This Section also explains the introductory material found in Volume 1 of the *Code* in front of Title 1.

### **R1-1-302. Publication of the Code and its Supplements**

- A. The Office publishes the *Code* in loose-leaf format as mandated by statute. (A.R.S. § 41-1012(B))
- B. The Office updates the *Code* by publishing quarterly supplements to the *Code*. Each supplement contains the final, emergency, and summary rules filed with the Office each calendar quarter (January through March, April through June, July through September, and October through December).
- C. Each supplement will be numbered by using the last two digits of the current year, followed by a dash and the number of the quarter. Each page of rules published in a supplement shall contain the supplement number and the last date of the calendar quarter in which those rules were filed with the Office.
- D. Supplements are printed in full Chapters. The Office prints in full Chapters, rather than issuing simply replacement pages, for the following reasons:
  - 1. The time necessary to replace the new supplement material in a full set of the *Code* is minimal when full Chapters are involved (it takes about 1/2 hour for a large supplement containing over 20 Chapters). Filing replacement pages can sometimes take more than one day.
  - 2. The time necessary for the Office staff to place the material on the shelf ready for sale is minimal (about an hour to place 25 copies of each Chapter on the shelf); time spent in compiling Chapters using replacement pages can take several days.
  - 3. Each page of a Chapter bears the same date when the full Chapter is printed; pages have different dates when only replacement pages are used.
  - 4. Page numbers are whole numbers; when replacement pages are printed, some of the pages can have a variety of subdivided numbers, making it difficult for anyone to figure out if the entire Chapter is there.
  - 5. Staff can more easily print and compile a supplement containing full Chapters; replacement-page supplements would take longer to figure out and longer to compile.
- E. The Office issues a new price list with the publication of each new supplement. The price list shows the current prices through the publication of that supplement and also shows for each Chapter the supplement in which that Chapter last appeared. This enables the user to quickly check a full set to make sure that the rules filed there are the current rules.
- F. Rules are sold by the Chapter. Anyone may purchase a single Chapter or Title or may subscribe to the full set of the *Code*. If a person subscribes to the full set, he or she may pay the annual supplement fee and receive all supplements as soon as they are printed. The Office bases its print run on the number of subscribers we have to the full set.



## ARTICLE 4. RULE DRAFTING

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### R1-1-401. Drafting Rules

This Section simply states that any agency preparing rules for *Register* publication or for filing shall do so in accordance with the provisions of this Chapter. You must take the Chapter as a whole. There are some provisions early in the Chapter which also pertain to information and instructions later in the Chapter. To have repeated this information and the instructions each time within this Chapter where they applied would have made the Chapter extremely long and cumbersome.

### R1-1-402. Assignment of Titles, Chapters, Articles, and Sections; Headings

- A. Although only the Titles in the *Code* are specified in this Chapter, the Office also assigns Titles, Chapters, Subchapters, Articles, Parts, and Sections to rules in cooperation with the agencies. The Office maintains for its own use a working outline of the *Code* where we add Chapters and Articles. As agencies use the divisions ‘Subchapter’ and ‘Part’, we will add those to the working outline as well. When an agency calls the Office requesting a new Chapter, we assign one. However, if no rules are filed in that Chapter within a year of assignment, the Office re-uses the number for another agency. Therefore, only when you know you will be proposing rules within a year should you call the Office for a Chapter number assignment. Please remember that, if you decide you want to use the terms ‘Subchapter’ and ‘Part’, you must get approval from the Office before formally using the terms in your rules. Approval usually will be given orally over the telephone or in person unless otherwise requested by the agency; however, the Office still needs to review your material before you begin actually rulemaking on the Chapter.
- B. Headings for all divisions of the *Code* shall describe the subject of that division of the *Code*. Headings shall not contain the word “Rule” or the word “Regulation” or the phrase “Rules and Regulations.” When you use these terms in the headings for our *Code* divisions, you are being redundant since each division is defined as containing a set of rules except for “Section” which is defined as a single rule.

### R1-1-403. Numbering System

- A. Each Section number in the *Code* begins with the letter “R” which signifies “Rule.”
- B. The *Code* uses a hyphenated numbering system. A Section number contains the Title number, the Chapter number, the Subchapter letter (if applicable), the Article number, the Part letter (if applicable), and the specific number for that Section.
  - 1. A Section number is not complete unless all divisions of the *Code* applicable to that Section are contained in the Section number.
  - 2. The one or two digits immediately after the “R” indicate the Title number which is followed by a dash or hyphen. For example, in the Section number for this Section, R1-1-403, the “1” appearing immediately after the “R” indicates that this Section is in Title 1.
  - 3. The one or two digits immediately after the first dash or hyphen indicate the Chapter number which is followed by a dash or hyphen if there are no Subchapters in the Chapter. For example, in the Section number for this Section, R1-1-403, the “1” following the first hyphen is the Chapter number indicating that this is Chapter 1.

If there is a Subchapter, the Subchapter’s letter label immediately follows the Chapter number and a dash or hyphen follows the Subchapter label. If this Chapter had Subchapters, the Section number for this Section might be written “R1-1A-403.” The “1A” following the first hyphen would indicate that this Section is contained in Chapter 1, Subchapter A.
  - 4. The digits to the far right indicate the specific Section number. While there are a few Chapters which were originally codified with only two-digit Section numbers to the far right of the complete Section number, the current format of the *Code* uses a three-digit number for the first Section number. Many Chapters have enough Articles and Sections to go to four-digit numbers and a few even have five-digit numbers. The digits to the far right indicate also the Article number. In a three-digit number, the first number of the three digits indicates the Article. In a four-digit number, the first two numbers indicate the Article number.

- For example, in the Section number for this Section, R1-1-403, the “4” indicates Article 4 and the “03” indicates the third Section in Article 4.
- If there is a Part, the Part’s letter label comes immediately after the second dash or hyphen and before the Section number. If this Article had Parts, the Section number for this Section might be written “R1-1-A403.” The “A403” following the second hyphen would indicate that this Section is contained in Part A of Article 4.

C. The first Section number in a Chapter shall be “101.” In Chapters adopted before the current format of beginning a Chapter with a three-digit number, this does not apply. Also in some Chapters adopted before the current format, Article numbers may not be indicated in the digits following the last hyphen. However, the Office is working to change the codification of these old Chapters to bring them up to current format.

Sections shall run consecutively throughout each Article and from Article (or Part) to Article (or Part). If an agency places text at one Section number and then skips a Section number and then places text at a subsequent number in the same Article, the Section number without text shall be headed “Reserved.” If the last Section in an Article is not “99” (the last number that can be used in an Article), the Section numbers between the last Section with text and the Section the number for which would end in “99” do not have to be listed. These are automatically reserved for future action and the Office will not publish these numbers until text is added at those numbers. Only when you adopt two nonconsecutive Sections within one Article or Part do you have to specify reserved Sections.

If you repeal an existing Section which falls between two other Sections which have text remaining, the Section shall be headed “Repealed.” No Section renumbering need be done to bring subsequent Sections with text up to fill the empty Section. In fact, your rules are clearer if you do not renumber.

If you renumber an existing Section which falls between two other Sections which have text remaining, the Section shall be headed “Renumbered.” No Section renumbering need be done to bring subsequent Sections with text up to fill the empty Section. Just like with repealed Sections, your rules are clearer if you do not renumber.

D. As specified above, Titles, Chapters, Articles, and Sections are indicated by Arabic numbers. Subchapters and Parts are indicated by capital letters.

### **R1-1-404. Renumbering Sections within a Chapter**

You do not have to renumber Sections when you are repealing Sections. The Office prefers that you not renumber unless there is a specific reason for doing so. Renumbering usually makes your rules harder to figure out when the Office must research them and reconstruct them as they were in effect on a particular date. However, if you must renumber, please follow the procedures listed below.

A. When renumbering one or more Sections at the same time you are making other changes to the Chapter,

1. The table of contents for the rulemaking shall show the old numbers with strike-outs and the new numbers with underlines.
  - a. If you are adopting a new Section at that number, you must show the old heading with strike-outs and the new heading with underlining.
  - b. If you are renumbering another existing Section to that number, you must show the new Section at the location of the old number with strike-outs through the Section's (with text) old number and underlining under the new number.
  - c. If you are not adopting new text at the old Section number and you are not renumbering another existing Section to the old Section number, you must show only the Section heading with strike-outs and the term “Renumbered” with underlining.
2. The table of contents for the rulemaking shall show the numbers in their new order. In other words, you disregard the old numbers (which you show with strike-outs) and only consider the new numbers to place the Sections in numerical order.

3. You must show the rules in the text in numerical order as renumbered too. In other words, the Sections in the text must appear in the same new order as you show them in the table of contents for the rulemaking.
- B.** If you are renumbering some rules but you are making no other changes to the rules, you may either:
1. Send a letter, signed by your agency chief executive officer or designee, to the Office telling us how you want your Chapter to be renumbered. In this case, we will make the changes for you and will publish both a notice in the Register and the renumbered rules in the next quarterly supplement to the Code.
  2. Go through the regular rulemaking process to make the numbering changes.
- C.** You may only renumber full Sections when asking the Office to make the changes for you. If you wish to split Sections into two or more Sections, combines two or more Sections into one Section, or take portions of one Section and move them to one or more Sections, you must go through the regular rulemaking process to make these changes.

#### **R1-1-405. Addition of New Sections Between Existing Sections**

When you draft your rules, you should not leave any Sections without text if there are Sections with text which follow the empty Section in the same Article or Part. If you have a valid reason for requesting the use of reserved Sections, please tell the Office. Otherwise, we will renumber your Sections so that they fall consecutively.

If you need to add a Section between two existing, consecutively numbered Sections with text, please contact the Office to ensure that the Section numbers you use are correct.

#### **R1-1-406. Re-using Chapter, Subchapter, Article, Part, or Section Numbers**

After you have used a Chapter, Subchapter, Article, or Part and you repeal or renumber the Chapter, Subchapter, Article, or Part in its entirety so that no text remains, you may not re-use that specific Chapter or Article number or Subchapter or Part letter for a period of one year if the subject matter of the division totally changes.

If you use a Section number and either repeal or renumber the Section in its entirety, you may re-use the Section number immediately even if the subject matter totally changes. The Sections have historical notes which explain what happened, but the Chapters, Subchapters, Articles, and Parts do not.

This is a new requirement and is to enable the Office staff to handle rules research much quicker in the future.

#### **R1-1-407. Authority Notes**

The Office receives many calls from the public asking what the specific authority is for a set or partial set of rules. Because of those questions, we wrote into these rules an allowance for an agency to give us the specific authority note for various divisions of the *Code*. If you wish us to place authority notes in your Chapter or Chapters, please send us a letter with the specific authority notes listed. We will then publish these with your Chapter the next time you amend the Chapter.

If you fail to cite a statute or portion of a statute in your authority note, your authority to promulgate rules is still valid.

If you do wish the Office to add authority notes to your Chapter or Chapters, please write the notes with the language as now shown on the notices of rulemaking activity. That is, we need the statute or statutes that the rules are implementing and the statute or statutes which give your agency the authority to promulgate the rules.

#### **R1-1-408. Text of the Section; Subsections**

- A.** The text of each Section submitted for publication and filing shall be double-spaced. Sections can run consecutively from page to page; each Section does not have to begin on a new page. The divisions of the Chapter, their labels, and their headings shall appear above the first Section number in the rulemaking package as outlined below:
1. The Title, its label and heading shall appear one inch from the top of the page, all in capital letters and centered on the line.
  2. The Chapter, its label and heading shall appear one double-space below the Title, all in capital letters and centered on the line.

3. The Subchapter, its label and heading (if applicable) shall appear one double-space below the Chapter, all in capital letters and centered on the line.
  4. The Article, its label and heading shall appear one double-space below the Chapter or Subchapter, whichever is applicable, all in capital letters and centered on the line.
  5. The Part, its label and heading shall appear one double-space below the Article, whichever is applicable, all in capital letters and centered on the line.
- B.** If the Section has only one paragraph, that paragraph shall not be labeled.
- C.** When your Section has one paragraph followed by numbered subsections but no paragraph which could be considered a subsection (B), the Office will treat the first paragraph as an implied subsection (A) but no label shall appear. The numbered subsections following this unlabeled paragraph shall be labeled at the second level of subsection and indented appropriately.
- D.** If a Section has two or more paragraphs at any level of subsection, each paragraph must be labeled. Do not leave a single unlabeled paragraph unlabeled at any level, unless the paragraph is an implied subsection (A) as specified in subsection (C). The text of a single paragraph at the second, third, and fourth levels following labeled subsections at the first, second, or third levels respectively, shall be incorporated into the lead-in paragraph for that paragraph.

For example, DO NOT leave a hanging paragraph as follows:

- A.** The following definition applies in this Section:  
“Plan” means the State Plan developed by the Board.

Instead, write it as follows:

- A.** In this Section, “Plan” means the State Plan developed by the Board.

OR

- A.** The following definition applies in this Section: “Plan” means the State Plan developed by the Board.

When you have two or more paragraphs at any level of subsection, they shall be indented as labeled as follows:

1. First level: The label is located at the left-hand margin of the page (one inch from the left-hand edge of the page). The text begins 1-1/4 inches from the left-hand edge of the page.
2. Second level: The label is located 1/4 inch from the left-hand margin of the page (1-1/4 inch from the left-hand edge of the page). The text begins 1-1/2 inches from the left-hand edge of the page.
3. Third level: The label is located 1/2 inch from the left-hand margin of the page (1-1/2 inch from the left-hand edge of the page). The text begins 1-3/4 inches from the left-hand edge of the page.
4. Fourth level: The label is located 3/4 inch from the left-hand margin of the page (1-3/4 inch from the left-hand edge of the page). The text begins 2 inches from the left-hand edge of the page.

Subsections are labeled as follows:

1. First level: capital letters
  2. Second level: Arabic numbers
  3. Third level: small letters
  4. Fourth level: small Roman numerals
- E.** Within the text of a subsection, an agency referring to the same subsection where the reference appear shall use the term “this subsection.”

EXAMPLE:

“An agency shall follow the procedures as outlined in this subsection.”

When an agency references, within the text of one subsection, another subsection in the same Section, the term “subsection” shall be used (but not capitalized) along with the appropriate subsection labels.

## EXAMPLES:

A reference to a first level subsection shall be “subsection (A).”

A reference to a second level subsection shall be “subsection (A)(1).”

A reference to a third level subsection shall be “subsection (A)(1)(a).”

A reference to a fourth level subsection shall be “subsection (A)(1)(a)(ii).”

When an agency references, within the text of one Section, another Section in the same Chapter, the agency shall give the Section number and any appropriate subsection labels.

For example, a reference to a complete Section would be “R1-1-402.”

A reference to a subsection of another Section would be “R1-1-402(B).”

When an agency references, within the text of a Section, a Section in another Chapter, the agency shall use the Code abbreviation followed by the Section number and any appropriate subsection labels.

For example, a reference to in R1-1-402 to a different Chapter would read “A.A.C. R3-4-111(B)(2).”

- F.** An agency shall not subdivide a Section into more than four levels of subsections unless the agency has obtained permission from the Office to do so. If the Office receives a proposed rulemaking package with fifth-level subsections, we will publish it with those subsection as a proposed rulemaking. However, we will notify you that we will not accept the package as a final rulemaking package with fifth-level subsections. Failure to obtain permission to use fifth-level subsections or lower will mean that, because you did not receive permission, you will not be allowed to use them.
- G.** If you have a list of definitions in alphabetical order, you will not have to attach subsection labels to each definition. However, you must indent the definitions as if they had labels. You also do not have to label lists of items in a particular order (usually alphabetical) but these shall also be indented as if the items in the list were labeled.
- H.** When dividing a Section into subsections, an agency shall not:

  - 1. Leave an unlabeled paragraph at any level after a labeled subsection at the same level. Only definitions in alphabetical order or other lists in a particular order need not be labeled. Each paragraph within a Section shall be labeled with the appropriate label. This makes references to those paragraphs easy to do. If you leave a paragraph unlabeled, there is no easy way to refer to that paragraph.
  - 2. Use an A without a B; a 1 without a 2; an a without a b; or a i without a ii. If you have a paragraph that you would try to label as an 1 but there is no 2, then take the text and place it at the end of the first-level subsection immediately above. This would be the same process when you have a paragraph that you want to label as a or i respectively but you do not have a paragraph to label as b or ii.

The only paragraph which is allowed to be unlabeled is an opening paragraph in a Section. This paragraph is an implied first-level subsection which would ordinarily be labeled with A. However, if there is no subsection B, this opening paragraph is unlabeled. If the opening paragraph has subsections, they are indented and labeled as second-level subsections.

Each labeled subsection should have text, in the form of a heading, a phrase, or a complete sentence. Do not use the word “Reserved” for any subsection. If you need to add text later, you can relabel your subsections at that time.

Subsections of supplementary material need not follow the format required within Sections. The purpose of allowing supplementary material is for items which cannot fit within the subsection levels. Supplementary material must appear upright on the page if the material is to be downloaded properly onto a computer disk. Materials which appear sideways on the page will not come through on a computer disk.

- I.** When referring to a subsection within the text of a subsection, enclosed the label for each subsection in parentheses. If the reference is to a subsection at the second, third, or fourth level, you must enclosed the label of each level of subsection.

EXAMPLES:

A reference to a first-level subsection: subsection (A).

A reference to a second-level subsection: subsection (B)(1).

A reference to a third-level subsection: subsection (C)(2)(a).

A reference to a fourth-level subsection: subsection (D)(3)(b)(i).

When referring to a subsection of a different Section than the one in which the reference appears, show the Section number and then each level of subsection.

EXAMPLE:

...as indicated in R12-18-302(B)(6)(d)(ii).

- J.** Numbered or lettered phrases within the text of a subsection are not allowed. These must be labeled and indented appropriately.

EXAMPLES:

DON'T WRITE:

Each application form includes 1) the applicant's name; 2) the applicant's address and telephone number; and 3) the applicant's educational information.

DO WRITE:

Each application form includes

1. The applicant's name,
2. The applicant's address and telephone number, and
3. The applicant's educational information.

DON'T WRITE:

2. The exam will cover a) the history of the profession, b) current law for the profession, and c) current practices and procedures.

DO WRITE:

2. The exam will cover
  - a. The history of the profession,
  - b. Current law for the profession, and
  - c. Current practices and procedures.

- K.** Agencies that wish to use a special font, format, or symbol shall contact the Office for permission before using the item. The Office will grant permission if the Office's computers can produce the special font, format, or symbol. The Office uses a sophisticated publishing software that enables us to create just about anything you can throw at us. However, keep in mind that the Office sells the Code on computer disk and many of these special fonts, formats, or symbols may not translate onto the disk.
- L.** When you use any acronyms, abbreviations, initialisms, and shortened forms not defined in the A.R.S., define the terms in your definitions Section rather than scattering the definitions throughout your Chapter wherever you happen to use them. When you scatter definitions, the public has a difficult time figuring out what your rules mean.

**R1-1-409. Citations to the Code, Register, Statutes, and Incorporated-by-reference Materials**

- A.** Citations to the *Arizona Administrative Register* include the volume number, the abbreviation "A.A.R.," and the page number. The volume number is listed immediately before the *Register* abbreviation and the page number is listed immediately after the abbreviation. Citations to the *Register* also include the issue date.

EXAMPLES:

92 A.A.R. 189, October 31, 1992

1 A.A.R. 1211, July 28, 1995.

- B.** Citations to the *Arizona Administrative Code* include the Title, Chapter, Subchapter, Article, Part, and Section, as applicable, and the abbreviation “A.A.C.” Subchapter labels appear immediately after the Chapter number; Part labels appears immediately before the Article number.

EXAMPLES:

1. A reference to a Title of the Code: 1 A.A.C.
2. A reference to a Chapter of the Code: 1 A.A.C. 1
3. A reference to a Subchapter of the Code: 1 A.A.C. 1B
4. A reference to an Article of the Code: 1 A.A.C. 1, Article 5
5. A reference to a Part of the Code: 1 A.A.C. 1, Article A5
6. A reference to a Section of the Code:
  - a. For a Section in a Chapter with no Subchapters: R12-4-101
  - b. For a Section in a Chapter with Subchapters: R18-1B-201.
  - c. For a Section in a Chapter with no Subchapters but with Parts: R17-4-A201.
  - d. For a Section in a Chapter with both Subchapters and Parts: R9-1J-A501.

In a Section number, the “R” indicates “rule”; the number (one or two digits) immediately after the “R” indicate the Title number followed by a hyphen; the number (one or two digits) between the two hyphens indicates the Chapter number which is followed immediately by the capital letter indicating the Subchapter label, if applicable, followed by a hyphen; the number after the second hyphen indicates the Section number with the first digit in a three-digit number or the first two digits of a four-digit number, or the first three digits of a five-digit number representing the Article number with the capital letter of the Part appearing in front of the number and immediately after the hyphen, if applicable.

- C.** Citations to state laws.

1. A citation to a law contained in a published edition of the Arizona Revised Statutes includes the abbreviation “A.R.S.” and either the specific Section number or the Title number, Chapter number, and Article number, in that order.

EXAMPLES:

A.R.S. § 41-1026

A.R.S. Title 41, Chapter 6, Article 6

2. A citation to a law not yet published in the A.R.S. is written as follows:
  - a. If the reference is to a new Section of the statutes and the codified Section number is known, the citation includes the Section number followed by the phrase “as added by Laws” and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section number of the law.

EXAMPLE:

A.R.S. § 41-1092, as added by Laws 1995, Ch. 251, §14

- b. If the reference is to an amendment of an existing Section of the A.R.S., the citation includes the Section number followed by the phrase “as amended by” and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the law which amended this Section of an existing law.

EXAMPLE:

A.R.S. § 41-1028, as amended by Laws 1994, Ch. 363, § 16.

- c. If the reference is to a new law that does not indicate the codified Section number, the citation only includes the word “Laws”, the year the law was passed, and the Section number of that law,

**EXAMPLE:**

The Joint Study Committee on Regulatory Reform and Enforcement established by Laws 1994, Ch. 363, § 30.

- 3. When you use a statutory citation and a commonly used name for a law, enclosed the commonly used name within parentheses immediately after the citation.

**EXAMPLE:**

A.R.S. § 41-1001 et seq. (the Arizona Administrative Procedure Act).

**D. Citations to federal laws and rules:**

1. Citations to federal laws.

- a. Citations to the U.S. Code and the U.S. Code Annotated include first the Title number, followed by the abbreviation for the item being cited (U.S.C. or U.S.C.A.), followed by the Part or Section number.
- b. Citations to laws not yet codified in the U.S.C. or the U.S.C.A. shall be referenced by the words “Public Law” or the abbreviation “P.L.” followed by the P.L. number. The P.L. number always includes the number of the Congress that enacted the law, followed by a hyphen, followed by the specific law number.
- c. Neither the word “Part” nor the word “Section” appear in a U.S.C. or a U.S.C.A. citation; the Section symbol (§) also does not appear in a U.S.C. or a U.S.C.A. citation.
- d. **EXAMPLES:**

DON’T WRITE: 23 U.S.C. Part 209

WRITE: 23 U.S.C. 209

DON’T WRITE: Public Law 20229 from the 103rd Congress

WRITE: P.L. 103-20229

2. Citations to federal rules.

- a. Citations to the Code of Federal Regulations include the Title number, the abbreviation “CFR”, and the Part or Section number. CFR citations also must include a specific date.
- b. Citations to the Federal Register include the volume number, the abbreviation “FR” or “Fed.Reg.”, and the page number on which the notice of rulemaking begins. FR citations also must include the date of publication.
- c. Neither the word “Part” nor the word “Section” appear in a CFR citation; the Section symbol (§) also does not appear in a CFR citation.
- d. **EXAMPLES:**

DON’T WRITE: Part 310 of Title 26 of the Code of Federal Regulations

WRITE: 26 CFR 310

DON’T WRITE: Federal Register, Vol. 89, pp. 10456-10490

WRITE: 89 FR 10456

**E. Citations to items incorporated by reference.**

Items incorporated by reference within rules shall be referenced by the specific publication information of the item, including publisher, place of publication, address of publisher if available, and the copyright date. Include in the reference all the information a member of the public would need to order the item except for the price, since prices are usually subject to change without notice.



## **R1-1-410. Standard Abbreviations**

Whenever you draft rules, you should always define all shortened forms and abbreviations used within those rules. However, there are some standard abbreviations which are specified in this Section which you will not have to define in your rules unless you use the abbreviation to mean something other than what is specified in this Section.

1. All two-letter abbreviations for the 50 states and the territories of the United States as designated by the United States Postal Service are standard abbreviations.
2. All chemical abbreviations for the elements are standard abbreviations.
3. The other standard abbreviations listed in R1-1-410 may also be used without further defining them in your rules.

## **R1-1-411. Automatic Repeal of Rules**

- A.** In some instances, an agency may adopt a Section which may have a time-limited effectiveness. In these instances, the agency may write an automatic repeal date within the Section itself. Only entire Sections may have an automatic repeal date. The automatic repeal process may not be used for less than an entire Section. The automatic repeal date shall be specified in the last subsection of the Section and should appear as the only topic within that last subsection.

EXAMPLES:

DON'T WRITE: 3. This subsection is automatically repealed on December 31, 1995.

WRITE: 3. This Section is automatically repealed on December 31, 1995.

DON'T WRITE: **B.** All applicants shall submit their applications by October 1, 1995. This Section is automatically repealed on December 31, 1995.

WRITE: **B.** All applicants shall submit their applications by October 1, 1995.

**C.** This Section is automatically repealed on December 31, 1995.

- B.** An agency that has written an automatic repeal date into a Section shall notify the Office when the date has passed (as soon after the date has passed as possible) so that the Office can delete the Section from the Code. Chapters from which Sections have been automatically repealed shall appear in the next available supplement to the Code.

## **R1-1-412. Supplementary Material; Camera-ready Material**

- A.** Sometimes an agency feels it must include materials with its rules which do not fit the codification requirements specified in 1 A.A.C. 1. If an agency wishes to include tabular materials, illustrations, diagrams, figures, and other supplementary material in its rules and those materials do not fit with the columnar requirements of the Code, the agency shall place them at the end of the appropriate Article and label them as Appendices, Exhibits, Illustrations, or Tables. All supplementary included with a Chapter is considered part of the Chapter and, once adopted, must be amended or repealed in the same manner as a regular rule.

Generally speaking, the following definitions apply to these terms:

1. Appendix: material in prose format.
  2. Exhibit: material that does not fit the definitions of Appendix, Illustration, or Table.
  3. Illustration: material in the form of a picture, diagram, map, or something similar.
  4. Table: material that is in the form of a table.
- B.** Appendices, Exhibits, Illustrations, and Tables are labeled with capital letters or Arabic numbers (whichever you choose, you must be consistent throughout your entire Chapter). The appropriate word for the type of material, its label, and its heading shall appear just as a Section number and heading must appear in the text.
- C.** If you adopt supplementary material which must appear sideways on the page, you must place this material at the end of the Article and label it appropriately. The Office will usually have to scan this type of material as an illustration in order to print it sideways on the page.
- D.** When you submit supplementary material to the Office for publication with your rules, the supplementary

material must be camera-ready in case the Office has to scan it in order to publish it with your rules.

Remember the following when preparing supplementary material for inclusion with your rules:

1. All supplementary material must fit within the margin requirements specified in 1 A.A.C. 1. This means that you must still have a 1-inch margin on all four sides of the page.
2. Forms, and the instructions for the execution or use of the form, are exempted from rulemaking requirements if their form or substantive requirements are prescribed by rule or statute. It is much better to explain in your rules what you are going to require on the form than it is to include the specific form in your rules. If you include the actual form, you will have to go through the entire rulemaking process to change its form, or to make any minor change including a new address or telephone number.

### **R1-1-413. Statutory Language**

Statutory language may now be included in your rules but it is still a good idea to avoid the use of statutory language if at all possible. Why? Because, if something is spelled out specifically in statute, it is redundant to also include the same specific language in a rule. If you find it necessary to include statutory language in a rule, please place the statutory language in italics, since 1 A.A.C. 1 reserves italics for this purpose. If you do not have italic capability, you may use a different typeface as long as you tell the Office which typeface you are using for statutory language and as long as the typeface is significantly different from the typeface you use for the rest of your rules.

Remember that underlining is NOT distinguishing type and therefore you CANNOT use it to specify statutory language.

### **R1-1-414. Incorporation by Reference; Citation of Referenced Material**

- A. Items that an agency may incorporate by reference are specified in A.R.S. § 41-1028.
- B. Each agency that incorporates materials by reference is required to keep a copy of the incorporated material in the agency's principal office along with the rules in which the material is incorporated.
- C. Each agency that incorporated material by reference must file one copy of the material when the agency submits its final, emergency, or exempt rules with the Office.
- D. Any material incorporated by reference must be cited as specified in R1-1-409. Following the citation of the material must come a statement that the material being incorporated contains no later editions or amendments. When writing this statement, DO NOT use the word "herein."
- E. Once an agency has filed a rule containing an incorporation by reference with the Office, the document is open for public inspection. The Office will not photocopy any copyrighted material or any federal code or regulation provisions incorporated by reference.

## ARTICLE 5. PROPOSED RULEMAKING

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### R1-1-501. Assignment of Chapters

Whenever an agency starts to draft rules for the first time, or whenever an agency wishes to draft rules in a new Chapter, the agency shall contact the Office for the assignment of a Title and Chapter number within the codification system. In addition, an agency wishing to add Articles, Parts, or Subchapters to an existing Chapter shall first contact the Office for assignment of these subdivisions of the Code.

### R1-1-502. Notice of Proposed Rulemaking

- A. Each proposed new Section, amendment or repeal of an existing Section, or renumbering of a Section when other changes are also being made shall be submitted to the Office for publication and filing as part of a Notice of Proposed Rulemaking. The Notice will probably be several pages in length. All questions, as noted in subsection (B), shall appear in the same numerical order as they are in subsection (B). All questions shall be answered, even if the answer is “Not applicable”. No question on the Notice may be answered “See attached”. Supplemental pages shall not be used.

The majority of the Notice is the Preamble, as specified in the Arizona APA. While the APA simply specifies “Preamble”, the Office refers to the entire Notice as a “Notice” rather than a “Preamble” since there is more to the Notice than just the Preamble. Everything in the Notice shall be double-spaced.

- B. The Notice shall contain the heading NOTICE OF PROPOSED RULEMAKING all in capital letters and centered on a line approximately one inch from the top of the page. One double-space below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. One double-space below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If the Chapter heading takes more than one line, each line shall be double-spaced and the text centered on the line.

If your agency has more than one Chapter, remember that the Chapter heading always includes the statutorily designated agency name with the subheading for the Chapter one double-space below the agency name.

FOR EXAMPLE:

For 1 A.A.C. 1, the Title and Chapter would appear as follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS  
CHAPTER 1. SECRETARY OF STATE

For 18 A.A.C. 2, the Title and Chapter would appear as follows:

TITLE 18. ENVIRONMENTAL QUALITY  
CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL

When an agency uses Subchapters, the word SUBCHAPTER, the Subchapter label, and the Subchapter heading shall appear one double-space below the Chapter.

When an agency uses Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

One double-space under the Chapter, or the Subchapter if applicable, shall appear the word PREAMBLE all in capital letters and centered on the line.

**\*\*NOTE:** The following questions must appear on the Notice just as they appear in R1-1-501(B). DO NOT change the language to suit your own purposes. The Office must have everything uniform and consistent.\*\*

1. Question #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.

- a. In the first column, all Sections on which you are taking rulemaking action shall appear in numerical order. If one or more Articles or Parts are involved in the rulemaking because their labels or headings are being added, repealed, amended, or renumbered, the Articles and Parts shall appear in the Sections Affected column in the proper location. Each Article undergoing rulemaking shall appear above the Sections in that Article undergoing rulemaking, if any. The same thing applies to Parts.

If you are also adding, amending, repealing, or renumbering any Appendix, Exhibit, Illustration, or Table which appear at the end of a Section, an Article, a Part, or the Chapter as a whole, these shall be listed in the Sections Affected column.

- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of a Section, the proper term shall be indented two spaces under the appropriate Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of an Article or Part, the proper term shall be used and indented the same as a Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of the Chapter that applies to the Chapter as a whole, the proper term shall be used and indented the same as a Section number but shall appear with a space between the last Section number in the column and the term.

**\*\*NOTE:** Section, Part, and Article headings do not appear in the Sections Affected column.\*\*

If you are repealing a Section and adopting a new Section in its place or renumbering a Section to another Section number and replacing the first one with text, the Section number will appear twice. You could list a Section three times depending on the action you are taking. For example, a Section could be repealed, another Section could be renumbered to where the first one was, and then you could amend the renumbered Section. Since only one rulemaking action can appear per line in the second column, the Section number may appear one, two, or three times depending on what you are doing to the Section.

**\*\*NOTE:** Previously repealed, reserved, or renumbered Sections where no text currently appears cannot be amended. You cannot amend what doesn't exist. A previously repealed Section cannot be repealed again unless you have subsequently adopted new text at that Section number.

Agencies shall not renumber Sections where no text currently exists.

- b. In the second column, list the rulemaking action you are taking on each Section. Do not use the term "Adopt" to mean a new Section. You are hoping to adopt everything in the rulemaking package; therefore to also use the term to mean a new Section is confusing. The proper terms for each type of action are as follows:

New Section - used when you are adopting all new text at a Section number. This includes new text after a Section has been repealed or renumbered and new text in a previously nonexistent Section.

Amendment - used when you are changing existing text within a Section but not changing the entire text.

Repeal - used when you are changing the entire text of a Section.

Renumber - used when you are changing the Section number. Do not confuse the term "renumber" with the term "relabel".

List only one rulemaking action per line.

FOR EXAMPLE:

DON'T WRITE: R1-1-201 Repeal, new Section

DO WRITE: R1-1-201 Repeal

R1-1-201 New Section

Always renumber or repeal a Section first before you place new text in that Section. Therefore, always list a renumbering or repeal in question #1 before you list the same Section as being a new Section.

2. This question asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. Please list the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing. Do not change this order and do not try to explain your answer. When you list items that are not requested in this question or when you decide to use a different format than the one specified, you create more work for Office staff who must try to interpret your answer and then list it in the specified form. If we do not interpret this correctly for you, it's your fault for not following directions. If you wish to add additional information to your answer, specify it after the implementing statutes (begin on the line one double-space below the implementing statutes). This could include rules you are implementing or constitutional provisions.
3. List in this question the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
4. In this question, explain your agency's reasons for initiating the rule. This is perhaps the most important question on this Notice. Try to be brief but cover all the issues involved.
5. In this question, show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
6. In this question, you must give a preliminary summary of the economic, small business, and consumer impact statement. Your full statement will be submitted to the council later in the rulemaking process. A summary of that statement shall appear here.
7. In this question, you must give the name and address of a specific person or persons in your agency whom the public can call with questions or comments concerning the accuracy of the economic, small business, and consumer impact statement, the preliminary summary for which appeared in question #6.
8. In this question, list the time, place, and nature of the proceedings for this rulemaking. If you do not schedule a proceeding, you must list where, when, and how persons may request an oral proceeding on the proposed rule. Most agencies schedule at least one oral proceeding. If you do schedule one or more oral proceedings, schedule them in locations affected by the rulemaking. (In other words, do not schedule a proceeding in Flagstaff if the only area affected by the rules is Tucson.)
9. In this question, list any other matters prescribed by statute that are applicable to your agency or to the specific set of rules.
10. In this question, list the material you have incorporated by reference and the Sections in which those incorporations by reference appear.
11. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page following your agency's answer to question #10.
  - a. In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking, its number, and its heading. Under the Article shall be the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines. Under the first Article or the first Part of the first Article, shall be the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Articles. **DO NOT list any Section, Part, or Article not involved in this particular rulemaking.** DO list all supplementary material that appears at the end of a Section, a Part, an Article, or the Chapter.

Remember that all Articles and Parts which have Sections undergoing rulemaking in this package must be shown in the table of contents. Do not list any Article or Part which has no Sections undergoing rulemaking unless you are amending the heading of the Article or Part or renumbering the Article or Part.
  - b. The full text of the Sections shall begin on the **NEXT PAGE** following the last item in the table of contents. At the top of this page shall appear the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking shall be listed in order. Remember than the

Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.

- i. If your rulemaking package consists only of entire new Sections, you do not have to underline the text. However, when the rules appear in the Register, you will see the text underlined.
  - ii. If your rulemaking package consists only of entire Sections being repealed, you do not have to strike through the text. However, when the rules appear in the Register, you will see the text with strike-outs.
  - iii. If your rulemaking package consists of amended Sections or a combination of amended Sections, repealed Sections, new Sections, or renumbered Sections, you must show all changes in the text, including the Section number and its heading. Show new language by underlining the text. Show language being deleted from the rule with strike-outs. The Office prefers the hyphen strike-out but will accept the slash strike-out; however, in the Register we only use the hyphen strike-out.
- d. When you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

FOR EXAMPLE:

DON'T WRITE: R1-1-102~~3~~

DO WRITE: ~~R1-1-102~~ R1-1-103

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no changes are being made to the text of the Section, show the renumbering and the Section heading. Then list "No change" for each subsection in that Section.

**\*\*NOTE:** When changing one or more letters in a word, strike out the entire word and underline the entire new word. This causes less confusion and will enable the Office to catch all changes when publishing the Register and the Code. (For example, DO NOT WRITE: amendments; DO WRITE: ~~amendments~~ amendment.)

### **R1-1-503. Public Comment Period**

The public comment period begins on the day the rules are published in the Register. Agencies must allow at least 30 days for the public comment period before holding an oral proceeding or hearing or submitting the rules to GRRC or to the Attorney General, whichever is appropriate.

### **R1-1-504. Public Hearings (Oral Proceedings) on Proposed Rulemaking**

- A.** Agencies must refer to the publication of the Register when attempting to schedule public hearings (oral proceedings) on their proposed rulemaking. Public hearings (oral proceedings) cannot be held before the end of the 30-day public comment period. It is a good idea to figure out when your rules will be published in the Register, then look on the schedule for the first day on which you can schedule a hearing or proceeding based on that publication date, and then allow some leeway in case you don't meet the deadline for that issue.

If you submit a Notice of Proposed Rulemaking on which you list your hearings or proceedings, please do not submit a Notice of Public Hearing listing the same hearings or proceedings. We will only publish the information in one location. The Notice of Public Hearing is only to be used when you don't schedule a hearing or proceeding and list in on the Notice of Proposed Rulemaking or when you have listed hearings or proceedings on your Notice of Proposed Rulemaking and now need to reschedule one or more of them or schedule one or more additional hearings or proceedings.

- B.** If a public hearing or proceedings is not schedule and your agency receives a written request for a public hearing or proceeding from five or more persons, you must schedule a hearing or proceeding and publish notice of it in the Register. The hearing or proceeding cannot take place until more than 30 days have elapsed since the publication of the notice in the Register.
- C.** If you begin a hearing or proceeding and the hearing officer publicly announces a time and place for a continuation of the public hearing at the time of the original public hearing, the agency need not submit a notice of public hearing to the Office for publication in the Register.

### **R1-1-505. Close of the Record**

The close of the public record for a proposed rulemaking happens on the date your agency chooses as the last date it will accept public comments. Your agency cannot adopt a rule until the rulemaking record is closed.

### **R1-1-506. Notice of Termination of Rulemaking**

- A.** If an agency wishes to terminate a rulemaking at any time after the proposed rules have been submitted to the Office for publication and filing and before the final rules have been submitted to the Office, the agency shall prepare and submit to the Office one original and four copies of a Notice of Termination of Rulemaking. No rule may be terminated after the agency has submitted the final rule to the Office.

The Notice of Termination of Rulemaking shall be headed NOTICE OF TERMINATION OF RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page. One double-space under the Notice heading shall appear the Title, its number, and its heading all in capital letters and centered on the line. One double-space under the Title shall appear the Chapter, its number, and its heading all in capital letters and centered on the line. If the Chapter has a Subchapter, the Subchapter, its label, and its heading shall appear one double-space below the Chapter in all capital letters and centered on the line. One double-space under the Chapter or under the Subchapter, whichever is applicable, shall be the following:

1. The Register citation and the date of the Notice of Proposed Rulemaking. The Register citation shall appear as specified in Section 3 of this manual) and shall include the volume number, the page number, and the issue date.
2. The Section numbers and their appropriate Articles or Parts or both in numerical and, in the case of Parts, in alphabetical order in one column and the original rulemaking action in the second column. Please make sure that you list the **original** rulemaking action; the term “Termination” is not allowed for this rulemaking action since it is not the original rulemaking action.

The original and each of the four copies of this Notice of Termination of Rulemaking shall be attached to a copy of the Notice of Proposed Rulemaking.

- B.** Both the original Notice or Proposed Rulemaking and the Notice of Termination of Rulemaking remain on file in the Office.
- C.** The Office will publish a list of terminated rules in the Register. The text of the terminated rules shall not be published.

### **R1-1-507. Supplemental Notices**

- A.** Sometimes, when taking rules through the process, an agency realizes that substantial changes must be made to the rules it proposed (before they reach the final stage). The substantial changes could be due to internal review by the agency or comments from the public. When substantial changes are necessary, the agency must prepare a Notice of Supplemental Proposed Rulemaking for filing with and publication. by the Office.
- B.** The supplemental notice shall contain the heading NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING in all capital letters centered on a line approximately one inch from the top of the page. One double-space under this heading shall appear the word TITLE, the Title number, and the Title heading in all capital letters and centered on the line. One double-space under the Title shall appear the word CHAPTER, the Chapter number, and the Chapter heading all in capital letters and centered on the line. If an agency has more than one Chapter on file with the Office, the Chapter heading on the notice shall specify the agency's name on the line with the word CHAPTER and the Chapter number. The Chapter subheading shall appear on the second line which is one double-space below. If the Chapter has Subchapters, the word SUBCHAPTER shall appear on the line one double-space under the Chapter along with the Subchapter label and the Subchapter heading all in capital letters and centered on the line.

One double-space below the Chapter, or Subchapter if applicable, shall appear the word PREAMBLE centered on the line and in all capital letters. Then shall appear the questions specified in R1-1-507(B) in the same numerical order.

1. The Register citation to the original Notice of Proposed Rulemaking shall specify the volume number, the Register abbreviation, the page on which the Notice of Proposed Rulemaking began, and the issue date. There is no need for the issue number to appear.
2. The Sections Affected and the Rulemaking Action shall appear in this question in two columns. The first column shall only list each Article (if the Article is being added or repealed or its heading is being amended or its number is being changed), each Part (if the Part is being added or repealed or its heading is being amended or its label is being changed), and each Section on which supplemental action is occurring. The Sections shall appear under their respective Parts, if applicable, and their respective Articles. The Rulemaking Action shall indicate the action being taken in this supplemental notice (new Section, amendment, repeal, renumber).
3. The specific statutory authority for the rulemaking. This shall include the statutes giving the agency general rulemaking authority (authorizing statutes) and the statutes which the rules are implementing (specific rulemaking). Any additional information the agency wishes to add shall appear at the end of this authority question.
4. The name and address of agency person with whom members of the public may communicate regarding the rule goes in this question. Please make sure that you specify the zip code in the address. Include the telephone number and, if appropriate, the fax number.
5. Your explanation of the rule, including the agency's reasons for initiating the rule, appear in this question.
6. An explanation of the substantial change which resulted in this supplemental notice appears in this question.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision goes in this question.
8. The preliminary summary of the economic, small business, and consumer impact goes in this question. This may or may not be the same summary that appeared in your original Notice of Proposed Rulemaking.
9. The name and address of agency personnel to whom comments shall be made concerning the accuracy of the economic, small business, and consumer impact goes in this question. Please include the zip code in the address. Also include the telephone number and fax number if these are appropriate.
10. The time, place, and nature of any oral proceedings you have scheduled for this supplemental rulemaking goes here. In most cases, the oral proceedings you may have scheduled for the original proposed rules will have passed. In this question, list only the new oral proceedings you have scheduled for this supplemental rulemaking.
11. If there are any other matters prescribed by statute that are applicable to your agency or to the specific class of rules, specify them in this question.
12. If this supplemental rulemaking contains any incorporations by reference, please specify them here. Do not include any incorporations which were in the original proposed rules but are not now in this supplemental rulemaking.
13. Specify here that the full text of the changes follows. Then begin the text of the next page.

The text shall show all changes being made in this supplemental rulemaking. Of course, if you were already amending Sections, you will still have to show all the changes being made from the rule as it is currently on file through the original proposed amendments through this supplemental notice.



## ARTICLE 6. FINAL RULEMAKING

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### R1-1-601. Preparation and Filing of a Final Rulemaking Package

- A. If your agency's rules are subject to review by the Council, you must submit your adopted rules to the Council within 120 days after the close of the rulemaking record. After review and approval by the Council, either your agency or the Council will submit the rules to the Office for filing and publication. If your agency decides to file the rules, the Council will return them to you (after approval) in a sealed envelope or container and you cannot break that seal; the seal must be intact when the rules are submitted to the Office. If you choose to have the Council file the rules with the Office for you, make sure that you have given the Council the original and four copies of the Agency Certificate and two copies of the Agency receipt. The Office cannot accept your rules without those two items.
- B. If your rules are exempt from the rulemaking process pursuant to A.R.S. § 41-1005, you must submit your rules to the Office within 120 days of the close of your rulemaking record. If your rules are exempt from the provisions of the APA, you must follow the procedures outlined in Article 9.
- C. If your rules are exempt from Council review, you must submit them to the Attorney General for approval within 120 days after the close of the rulemaking record. Once the Attorney General has approved the rules, that office will submit them directly to the Secretary of State for filing and publication. Again, make sure that you have submitted to the Attorney General one original and four copies of the Agency Certificate and two copies of the Agency Receipt. The Office cannot accept your rules without these items.
- D. If your agency adopts emergency rules, you must follow the procedure outlined in Article 7.
- E. The Notice shall contain the heading NOTICE OF FINAL RULEMAKING all in capital letters and centered on a line approximately one inch from the top of the page. One double-space below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. One double-space below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If the Chapter heading takes more than one line, each line shall be double-spaced and the text centered on the line.

If your agency has more than one Chapter, remember that the Chapter heading always includes the statutorily designated agency name with the subheading for the Chapter one double-space below the agency name.

FOR EXAMPLE:

For 1 A.A.C. 1, the Title and Chapter would appear as follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS  
CHAPTER 1. SECRETARY OF STATE

For 15 A.A.C. 5, the Title and Chapter would appear as follows:

TITLE 15. REVENUE  
CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION

When an agency uses Subchapters, the word SUBCHAPTER, the Subchapter label, and the Subchapter heading shall appear one double-space below the Chapter.

When an agency uses Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

One double-space under the Chapter, or the Subchapter if applicable, shall appear the word PREAMBLE all in capital letters and centered on the line.

**\*\*NOTE:** The following questions must appear on the Notice just as they appear in R1-1-501(B). DO NOT change the language to suit your own purposes. The Office must have everything uniform and consistent.\*\*

1. Question #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.

- a. In the first column, all Sections on which you are taking rulemaking action shall appear in numerical order. If one or more Articles or Parts are involved in the rulemaking because their labels or headings are being added, repealed, amended, or renumbered, the Articles and Parts shall appear in the Sections Affected column in the proper location. Each Article undergoing rulemaking shall appear above the Sections in that Article undergoing rulemaking, if any. The same thing applies to Parts.

If you are also adding, amending, repealing, or renumbering any Appendix, Exhibit, Illustration, or Table which appear at the end of a Section, an Article, a Part, or the Chapter as a whole, these shall be listed in the Sections Affected column.

- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of a Section, the proper term shall be indented two spaces under the appropriate Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of an Article or Part, the proper term shall be used and indented the same as a Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of the Chapter that applies to the Chapter as a whole, the proper term shall be used and indented the same as a Section number but shall appear with a space between the last Section number in the column and the term.

**\*\*NOTE:** Section, Part, and Article headings do not appear in the Sections Affected column.\*\*

If you are repealing a Section and adopting a new Section in its place or renumbering a Section to another Section number and replacing the first one with text, the Section number will appear twice. You could list a Section three times depending on the action you are taking. For example, a Section could be repealed, another Section could be renumbered to where the first one was, and then you could amend the renumbered Section. Since only one rulemaking action can appear per line in the second column, the Section number may appear one, two, or three times depending on what you are doing to the Section.

**\*\*NOTE:** Previously repealed, reserved, or renumbered Sections where no text currently appears cannot be amended. You cannot amend what doesn't exist. A previously repealed Section cannot be repealed again unless you have subsequently adopted new text at that Section number.

Agencies shall not renumber Sections where no text currently exists.

- b. In the second column, list the rulemaking action you are taking on each Section. **DO NOT** use the term "Adopt" to mean a new Section. You are adopting everything in the rulemaking package; therefore to also use the term to mean a new Section is confusing. The proper terms for each type of action are as follows:

New Section - used when you are adopting all new text at a Section number. This includes new text after a Section has been repealed or renumbered and new text in a previously nonexistent Section.

Amendment - used when you are changing existing text within a Section but not changing the entire text.

Repeal - used when you are changing the entire text of a Section.

Renumber - used when you are changing the Section number. Do not confuse the term "renumber" with the term "relabel".

List only one rulemaking action per line.

FOR EXAMPLE:

DON'T WRITE:	R1-1-201	Repeal, new Section
DO WRITE:	R1-1-201	Repeal
	R1-1-201	New Section

Always renumber or repeal a Section first before you place new text in that Section. Therefore, always list a renumbering or repeal in question #1 before you list the same Section as being a new Section.

2. This question asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. Please list the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing. Do not change this order and do not try to explain your answer. When you list items that are not requested in this question or when you decide to use a different format than the one specified, you create more work for Office staff who must try to interpret your answer and then list it in the specified form. If we do not interpret this correctly for you, it's your fault for not following directions. If you wish to add additional information to your answer, specify it after the implementing statutes (begin on the line one double-space below the implementing statutes). This could include rules you are implementing or constitutional provisions.
3. In this question, specify the effective date of your rules. If you wish it to be the date filed with the Office, specify that. If the effective date is to be a date in the future, please specify the date and tell why it must be a future date. The Office will then insert the appropriate specific date when we publish the rules in the *Register*.
4. In this question list all previous notices that appeared in the *Register* concerning this final rule. You need to specify the heading of the notice and then give the *Register* citation for each notice listed here.
5. List in this question the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
6. In this question, explain the rule and your agency's reasons for initiating the rule. This is perhaps the most important question on this Notice. Try to be brief but cover all the issues involved.
7. In this question, show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
8. In this question, you must give the summary of the economic, small business, and consumer impact. Your full statement must also be submitted to the Office for filing but is not published. A summary of that statement is what must appear here.
9. In this question, describe the changes made to the rules between proposal and final rules including all supplemental notices.
10. In this question, you must summarize the principal comments received from the public and your agency's response to them.
11. In this question, list any other matters prescribed by statute that are applicable to your agency or to the specific set of rules.
12. In this question, list the material you have incorporated by reference and the Sections in which those incorporations by reference appear.
13. In this question, please specify whether the rule was previously adopted as an emergency rule. If your answer is "yes", please specify whether you made any changes to the rule between adoption as an emergency rule and this final rule.
14. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page following your agency's answer to question #13.
  - a. In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking. its number, and its heading. Under the Article shall be the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines. Under the first Article or the first Part of the first Article, shall be the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Arti-

cles. **DO NOT list any Section, Part, or Article not involved in this particular rulemaking.** DO list all supplementary material that appears at the end of a Section, a Part, an Article, or the Chapter.

Remember that all Articles and Parts which have Sections undergoing rulemaking in this package must be shown in the table of contents. Do not list any Article or Part which has no Sections undergoing rulemaking unless you are amending the heading of the Article or Part or renumbering the Article or Part.

- b. The full text of the Sections shall begin on the **NEXT PAGE** following the last item in the table of contents. At the top of this page shall appear the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking shall be listed in order. Remember that the Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.
  - i. If your rulemaking package consists only of entire new Sections, you do not have to underline the text. However, when the rules appear in the Register, you will see the text underlined.
  - ii. If your rulemaking package consists only of entire Sections being repealed, you do not have to strike through the text. However, when the rules appear in the Register, you will see the text with strike-outs.
  - iii. If your rulemaking package consists of amended Sections or a combination of amended Sections, repealed Sections, new Sections, or renumbered Sections, you must show all changes in the text, including the Section number and its heading. Show new language by underlining the text. Show language being deleted from the rule with strike-outs. The Office prefers the hyphen strike-out but will accept the slash strike-out; however, in the Register we only use the hyphen strike-out.
- d. When you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

FOR EXAMPLE:

DON'T WRITE: R1-1-102~~3~~

DO WRITE: ~~R1-1-102~~ R1-1-103

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no changes are being made to the text of the Section, show the renumbering and the Section heading. Then list "No change" for each subsection in that Section.

**\*\*NOTE:** When changing one or more letters in a word, strike out the entire word and underline the entire new word. This causes less confusion and will enable the Office to catch all changes when publishing the Register and the Code. (For example, DO NOT WRITE: amendments; DO WRITE: ~~amendments~~ amendment.)

- F. Each final rulemaking package your agency submits to the Office for publication and filing, you must submit one original package and four copies. You also must include the following:
  - 1. The Agency Certificate (one original and four copies).
  - 2. A Certificate of Approval from the Council if the rules are subject to Council review.
  - 3. A Certificate of Approval from the Attorney General if the rules are not subject to Council review.
  - 4. A Concise Explanatory Statement.

You must also include the economic, small business, and consumer impact statement pursuant to A.R.S. § 41-1031(A).

# ARTICLE 7. EMERGENCY RULEMAKING

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## R1-1-701. Preparation and Filing of an Emergency Rulemaking Package

- A. When your agency determines that a rule (a new Section, an amendment to an existing Section, or a repeal of an existing Section) falls within the emergency provisions of A.R.S. § 41-1026, your agency shall prepare a Notice of Emergency Rulemaking. The notice shall contain the heading NOTICE OF EMERGENCY RULEMAKING in all capital letters centered on a line approximately one inch from the top of the page. One double-space below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. One double-space below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If the Chapter heading takes more than one line, each line shall be double-spaced and the text centered on the line.

If your agency has more than one Chapter, remember that the Chapter heading always includes the statutorily designated agency name with the subheading for the Chapter one double-space below the agency name.

FOR EXAMPLE:

For 1 A.A.C. 1, the Title and Chapter would appear as follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 1. SECRETARY OF STATE

For 9 A.A.C. 10, the Title and Chapter would appear as follows:

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES

HEALTH CARE INSTITUTIONS: LICENSURE

When an agency uses Subchapters, the word SUBCHAPTER, the Subchapter label, and the Subchapter heading shall appear one double-space below the Chapter.

When an agency uses Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

One double-space under the Chapter, or the Subchapter if applicable, shall appear the word PREAMBLE all in capital letters and centered on the line.

**\*\*NOTE:** The following questions must appear on the Notice just as they appear in R1-1-501(B). DO NOT change the language to suit your own purposes. The Office must have everything uniform and consistent.\*\*

1. Question #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.

- a. In the first column, all Sections on which you are taking rulemaking action shall appear in numerical order. If one or more Articles or Parts are involved in the rulemaking because their labels or headings are being added, repealed, amended, or renumbered, the Articles and Parts shall appear in the Sections Affected column in the proper location. Each Article undergoing rulemaking shall appear above the Sections in that Article undergoing rulemaking, if any. The same thing applies to Parts.

If you are also adding, amending, repealing, or renumbering any Appendix, Exhibit, Illustration, or Table which appear at the end of a Section, an Article, a Part, or the Chapter as a whole, these shall be listed in the Sections Affected column.

- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of a Section, the proper term shall be indented two spaces under the appropriate Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of an Article or Part, the proper term shall be used and indented the same as a Section number.

- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of the Chapter that applies to the Chapter as a whole, the proper term shall be used and indented the same as a Section number but shall appear with a space between the last Section number in the column and the term.

**\*\*NOTE:** Section, Part, and Article headings do not appear in the Sections Affected column.\*\*

If you are repealing a Section and adopting a new Section in its place or renumbering a Section to another Section number and replacing the first one with text, the Section number will appear twice. You could list a Section three times depending on the action you are taking. For example, a Section could be repealed, another Section could be renumbered to where the first one was, and then you could amend the renumbered Section. Since only one rulemaking action can appear per line in the second column, the Section number may appear one, two, or three times depending on what you are doing to the Section.

**\*\*NOTE:** Previously repealed, reserved, or renumbered Sections where no text currently appears cannot be amended. You cannot amend what doesn't exist. A previously repealed Section cannot be repealed again unless you have subsequently adopted new text at that Section number.

Agencies shall not renumber Sections where no text currently exists.

- b. In the second column, list the rulemaking action you are taking on each Section. **DO NOT** use the term "Adopt" to mean a new Section. You are adopting everything in the rulemaking package; therefore to also use the term to mean a new Section is confusing. The proper terms for each type of action are as follows:

New Section - used when you are adopting all new text at a Section number. This includes new text after a Section has been repealed or renumbered and new text in a previously nonexistent Section.

Amendment - used when you are changing existing text within a Section but not changing the entire text.

Repeal - used when you are changing the entire text of a Section.

Renumber - used when you are changing the Section number. Do not confuse the term "renumber" with the term "relabel".

List only one rulemaking action per line.

FOR EXAMPLE:

DON'T WRITE: R1-1-201 Repeal, new Section

DO WRITE: R1-1-201 Repeal

R1-1-201 New Section

Always renumber or repeal a Section first before you place new text in that Section. Therefore, always list a renumbering or repeal in question #1 before you list the same Section as being a new Section.

2. This question asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. Please list the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing. Do not change this order and do not try to explain your answer. When you list items that are not requested in this question or when you decide to use a different format than the one specified, you create more work for Office staff who must try to interpret your answer and then list it in the specified form. If we do not interpret this correctly for you, it's your fault for not following directions. If you wish to add additional information to your answer, specify it after the implementing statutes (begin on the line one double-space below the implementing statutes). This could include rules you are implementing or constitutional provisions.
3. In this question, specify the effective date of your rules. If you wish it to be the date filed with the Office, specify that. If the effective date is to be a date in the future, please specify the date and tell why it must be a future date. The Office will then insert the appropriate specific date when we publish the rules in the *Register*.

4. In this question, please specify whether the rulemaking is a renewal of a previous emergency rulemaking. If your answer is “yes”, please specify the previous notice or notices of emergency rulemaking and their *Register* citations.
5. List in this question the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
6. In this question, explain the rule and your agency’s reasons for initiating the rule. This is perhaps the most important question on this Notice. Try to be brief but cover all the issues involved.
7. In this question, show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
8. In this question, you must give the summary of the economic, small business, and consumer impact if this is a renewal of an emergency. Your full statement must also be submitted to the Office for filing but is not published. A summary of that statement is what must appear here. If this is the first time you have adopted this emergency, you do not have to give the summary here or file the entire statement.
9. In this question, list any other matters prescribed by statute that are applicable to your agency or to the specific set of rules.
10. In this question, list the material you have incorporated by reference and the Sections in which those incorporations by reference appear.
11. In this question, please justify the rule’s adoption as an emergency rule.
12. The date of the Attorney General’s approval. You must leave this answer blank although you must still list the question. The Office will fill in the appropriate date for you when we publish the *Register*.
13. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page following your agency’s answer to question #13.
  - a. In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking. its number, and its heading. Under the Article shall be the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines. Under the first Article or the first Part of the first Article, shall be the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Articles. **DO NOT list any Section, Part, or Article not involved in this particular rulemaking.** DO list all supplementary material that appears at the end of a Section, a Part, an Article, or the Chapter.

Remember that all Articles and Parts which have Sections undergoing rulemaking in this package must be shown in the table of contents. Do not list any Article or Part which has no Sections undergoing rulemaking unless you are amending the heading of the Article or Part or renumbering the Article or Part.
  - b. The full text of the Sections shall begin on the **NEXT PAGE** following the last item in the table of contents. At the top of this page shall appear the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking shall be listed in order. Remember than the Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.
    - i. If your rulemaking package consists only of entire new Sections, you do not have to underline the text. However, when the rules appear in the Register, you will see the text underlined.
    - ii. If your rulemaking package consists only of entire Sections being repealed, you do not have to strike through the text. However, when the rules appear in the Register, you will see the text with strike-outs.
    - iii. If your rulemaking package consists of amended Sections or a combination of amended Sections, repealed Sections, new Sections, or renumbered Sections, you must show all changes in the text,

- including the Section number and its heading. Show new language by underlining the text. Show language being deleted from the rule with strike-outs. The Office prefers the hyphen strike-out but will accept the slash strike-out; however, in the Register we only use the hyphen strike-out.
- d. When you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

FOR EXAMPLE:

DO NOT WRITE: R1-1-102~~3~~

DO WRITE: ~~R1-1-102~~ R1-1-103

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no changes are being made to the text of the Section, show the renumbering and the Section heading. Then list “No change” for each subsection in that Section.

**\*\*NOTE:** When changing one or more letters in a word, strike out the entire word and underline the entire new word. This causes less confusion and will enable the Office to catch all changes when publishing the Register and the Code. (For example, DO NOT WRITE: amendments; DO WRITE: ~~amendments~~ amendment.)

- B.** You must submit your emergency rulemaking package to the Attorney General for approval. The package must contain one original and four copies of the Agency Certificate and two copies of the Agency Receipt. The Office will not accept your rules without those two items.
- C.** The Attorney General shall indicate approval of the package by signing an approval form which shall be attached to the first page of the original of the notice. The Attorney General shall then submit the package (one original and four copies) to the Office for publication and filing.
- D.** Emergency rules take effect on the date they are filed with the Office unless a later date is specified. If a later date is specified, you must tell the Office why the later date is justified. Emergency rules are now in effect for 180 days and may be renewed for a maximum of two additional 180-day periods pursuant to the provisions of A.R.S. § 41-1026.
- E.** If the text of a renewed emergency rule differs from the text of the previous emergency rule, your agency shall submit to the Office, at the time the renewed emergency rule is filed, a list of every change made to the latest emergency rule since the previous emergency rule was adopted.
- F.** Each renewal of an emergency rule shall be prepared in the manner outlined in this Section.



# ARTICLE 8. SUMMARY RULEMAKING

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## R1-1-801. Summary Rulemaking

- A.** If your agency's rules are subject to Council review, your agency may use the summary rulemaking process outlined in A.R.S. § 41-1027 for repeals of rules made obsolete by repeal or supersession of your agency's statutory authority or the adoption, amendment and repeal of rules that repeat verbatim existing statutory authority granted to your agency.
- B.** When your agency determines that a rule (a new Section, an amendment to an existing Section, or a repeal of an existing Section) falls within the summary provisions of A.R.S. § 41-1027, your agency shall prepare a Notice of Summary Rulemaking. The notice shall contain the heading NOTICE OF proposed SUMMARY RULEMAKING in all capital letters centered on a line approximately one inch from the top of the page. One double-space below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. One double-space below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If the Chapter heading takes more than one line, each line shall be double-spaced and the text centered on the line.

If your agency has more than one Chapter, remember that the Chapter heading always includes the statutorily designated agency name with the subheading for the Chapter one double-space below the agency name.

FOR EXAMPLE:

For 1 A.A.C. 1, the Title and Chapter would appear as follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS  
CHAPTER 1. SECRETARY OF STATE

For 9 A.A.C. 10, the Title and Chapter would appear as follows:

TITLE 3. AGRICULTURE  
CHAPTER 3. DEPARTMENT OF AGRICULTURE  
ENVIRONMENTAL SERVICES DIVISION

When an agency uses Subchapters, the word SUBCHAPTER, the Subchapter label, and the Subchapter heading shall appear one double-space below the Chapter.

When an agency uses Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

One double-space under the Chapter, or the Subchapter if applicable, shall appear the word PREAMBLE all in capital letters and centered on the line.

**\*\*NOTE:** The following questions must appear on the Notice just as they appear in R1-1-501(B). DO NOT change the language to suit your own purposes. The Office must have everything uniform and consistent.\*\*

1. Question #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.
  - a. In the first column, all Sections on which you are taking rulemaking action shall appear in numerical order. If one or more Articles or Parts are involved in the rulemaking because their labels or headings are being added, repealed, amended, or renumbered, the Articles and Parts shall appear in the Sections Affected column in the proper location. Each Article undergoing rulemaking shall appear above the Sections in that Article undergoing rulemaking, if any. The same thing applies to Parts.  
  
If you are also adding, amending, repealing, or renumbering any Appendix, Exhibit, Illustration, or Table which appear at the end of a Section, an Article, a Part, or the Chapter as a whole, these shall be listed in the Sections Affected column.

- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of a Section, the proper term shall be indented two spaces under the appropriate Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of an Article or Part, the proper term shall be used and indented the same as a Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of the Chapter that applies to the Chapter as a whole, the proper term shall be used and indented the same as a Section number but shall appear with a space between the last Section number in the column and the term.

**\*\*NOTE:** Section, Part, and Article headings do not appear in the Sections Affected column.\*\*

If you are repealing a Section and adopting a new Section in its place or renumbering a Section to another Section number and replacing the first one with text, the Section number will appear twice. You could list a Section three times depending on the action you are taking. For example, a Section could be repealed, another Section could be renumbered to where the first one was, and then you could amend the renumbered Section. Since only one rulemaking action can appear per line in the second column, the Section number may appear one, two, or three times depending on what you are doing to the Section.

**\*\*NOTE:** Previously repealed, reserved, or renumbered Sections where no text currently appears cannot be amended. You cannot amend what doesn't exist. A previously repealed Section cannot be repealed again unless you have subsequently adopted new text at that Section number.

Agencies shall not renumber Sections where no text currently exists.

- b. In the second column, list the rulemaking action you are taking on each Section. **DO NOT** use the term "Adopt" to mean a new Section. You are adopting everything in the rulemaking package; therefore to also use the term to mean a new Section is confusing. The proper terms for each type of action are as follows:

New Section - used when you are adopting all new text at a Section number. This includes new text after a Section has been repealed or renumbered and new text in a previously nonexistent Section.

Amendment - used when you are changing existing text within a Section but not changing the entire text.

Repeal - used when you are changing the entire text of a Section.

Renumber - used when you are changing the Section number. Do not confuse the term "renumber" with the term "relabel".

List only one rulemaking action per line.

FOR EXAMPLE:

DO NOT WRITE: R1-1-201    Repeal, new Section

DO WRITE:            R1-1-201    Repeal

                          R1-1-201    New Section

Always renumber or repeal a Section first before you place new text in that Section. Therefore, always list a renumbering or repeal in question #1 before you list the same Section as being a new Section.

2. This question asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. Please list the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing. Do not change this order and do not try to explain your answer. When you list items that are not requested in this question or when you decide to use a different format than the one specified, you create more work for Office staff who must try to interpret your answer and then list it in the specified form. If we do not interpret this correctly for you, it's your fault for not following directions. If you wish to add additional information to your answer, specify it after the implementing statutes (begin on the line one double-space below the implementing statutes). This could include rules you are implementing or constitutional provisions.

3. In this question, specify the interim effective date of your rules. The interim effective date is the date the summary rules are published in the *Register* as proposed summary rules. If you are unsure in which issue of the *Register* your rules will appear, please leave this answer blank and the Office will fill in the appropriate interim effective date.
4. List in this question the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
5. In this question, explain the rule and your agency's reasons for initiating the rule. This is perhaps the most important question on this Notice. Try to be brief but cover all the issues involved.
6. In this question, show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
7. In this question, you must give the summary of the economic, small business, and consumer impact. Your full statement must also be submitted to the Office for filing but is not published. A summary of that statement is what must appear here. If your summary rulemaking only repeals existing rule language, the economic, small business, and consumer impact statement is not necessary.
8. In this question, you must list the name and address of a specific person in your agency whom the public can call with questions or comments about the accuracy of the economic, small business, and consumer impact. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
9. In this question, list the time, place and nature of the proceedings for the adoption, amendment, or repeal of the rules. Some agencies have interpreted this to mean the summary rulemaking process. However, the Office believes the intent of this question was for the agency to list any oral proceedings or hearings on these summary rules.
10. In this question, explain why summary rulemaking is justified.
11. In this question, list any other matters prescribed by statute that are applicable to your agency or to the specific set of rules.
12. In this question, list the material you have incorporated by reference and the Sections in which those incorporations by reference appear.
13. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page following your agency's answer to question #12.
  - a. In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking. its number, and its heading. Under the Article shall be the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines. Under the first Article or the first Part of the first Article, shall be the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Articles. **DO NOT list any Section, Part, or Article not involved in this particular rulemaking.** DO list all supplementary material that appears at the end of a Section, a Part, an Article, or the Chapter.
 

Remember that all Articles and Parts which have Sections undergoing rulemaking in this package must be shown in the table of contents. Do not list any Article or Part which has no Sections undergoing rulemaking unless you are amending the heading of the Article or Part or renumbering the Article or Part.
  - b. The full text of the Sections shall begin on the **NEXT PAGE** following the last item in the table of contents. At the top of this page shall appear the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking shall be listed in order. Remember than the Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.

- i. If your rulemaking package consists only of entire new Sections, you do not have to underline the text. However, when the rules appear in the Register, you will see the text underlined.
- ii. If your rulemaking package consists only of entire Sections being repealed, you do not have to strike through the text. However, when the rules appear in the Register, you will see the text with strike-outs.
- iii. If your rulemaking package consists of amended Sections or a combination of amended Sections, repealed Sections, new Sections, or renumbered Sections, you must show all changes in the text, including the Section number and its heading. Show new language by underlining the text. Show language being deleted from the rule with strike-outs. The Office prefers the hyphen strike-out but will accept the slash strike-out; however, in the Register we only use the hyphen strike-out.
- d. When you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

FOR EXAMPLE:

DO NOT WRITE: R1-1-102~~3~~

DO WRITE: ~~R1-1-102~~ R1-1-103

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no changes are being made to the text of the Section, show the renumbering and the Section heading. Then list “No change” for each subsection in that Section.

**\*\*NOTE:** When changing one or more letters in a word, strike out the entire word and underline the entire new word. This causes less confusion and will enable the Office to catch all changes when publishing the Register and the Code. (For example, DO NOT WRITE: amendments; DO WRITE: ~~amendments~~ amendment.)

- C. Within 90 days after publication of the proposed summary rules in the *Register*, you must submit the summary rules to the Council as adopted summary rules. You must also submit the preamble, the concise explanatory statement, and the economic, small business, and consumer impact statement (remember that the economic, small business, and consumer impact statement is not necessary when you are only repealing existing rule language).
- D. After the Council has had the time to review the summary rule, it will place the summary rule on its consent agenda unless a member of the Council or the Administrative Rules Oversight Committee requests a hearing. If a hearing is requested, the Council shall act on the summary rule and issue its approval or shall return the rule to the agency for initiation of the rule under the regular rulemaking process. If the Council returns the rule to the agency, the interim effect of the rule is revoked as of the date of initial publication of the proposed summary rule in the *Register* unless the Council orders otherwise.
- E. If the Council approves the summary, the agency shall submit a Notice of Adopted Summary Rule to the Office for publication and filing. The notice shall contain the heading NOTICE OF ADOPTED SUMMARY RULE-MAKING in all capital letters centered on a line approximately one inch from the top of the page. One double-space below this heading shall be the word TITLE, the Title number, and the Title heading, all in capital letters and centered on the line. One double-space below the Title shall be the word CHAPTER, the Chapter number, and the Chapter heading, all in capital letters and centered on the line.

If the Chapter heading takes more than one line, each line shall be double-spaced and the text centered on the line.

If your agency has more than one Chapter, remember that the Chapter heading always includes the statutorily designated agency name with the subheading for the Chapter one double-space below the agency name.

FOR EXAMPLE:

For 1 A.A.C. 1, the Title and Chapter would appear as follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS  
CHAPTER 1. SECRETARY OF STATE

For 9 A.A.C. 10, the Title and Chapter would appear as follows:

TITLE 6. ECONOMIC SECURITY  
CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY  
DEVELOPMENTAL DISABILITIES

When an agency uses Subchapters, the word SUBCHAPTER, the Subchapter label, and the Subchapter heading shall appear one double-space below the Chapter.

When an agency uses Parts, the Parts will appear in the table of contents for the rulemaking and in the text but not at the beginning of the Notice.

One double-space under the Chapter, or the Subchapter if applicable, shall appear the word PREAMBLE all in capital letters and centered on the line.

**\*\*NOTE:** The following questions must appear on the Notice just as they appear in R1-1-501(B). DO NOT change the language to suit your own purposes. The Office must have everything uniform and consistent.\*\*

1. Question #1 has two columns. The first column is headed **Sections Affected**. The second column is headed **Rulemaking Action**.

a. In the first column, all Sections on which you are taking rulemaking action shall appear in numerical order. If one or more Articles or Parts are involved in the rulemaking because their labels or headings are being added, repealed, amended, or renumbered, the Articles and Parts shall appear in the Sections Affected column in the proper location. Each Article undergoing rulemaking shall appear above the Sections in that Article undergoing rulemaking, if any. The same thing applies to Parts.

If you are also adding, amending, repealing, or renumbering any Appendix, Exhibit, Illustration, or Table which appear at the end of a Section, an Article, a Part, or the Chapter as a whole, these shall be listed in the Sections Affected column.

- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of a Section, the proper term shall be indented two spaces under the appropriate Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of an Article or Part, the proper term shall be used and indented the same as a Section number.
- In the case of an Appendix, Exhibit, Illustration, or Table that is at the end of the Chapter that applies to the Chapter as a whole, the proper term shall be used and indented the same as a Section number but shall appear with a space between the last Section number in the column and the term.

**\*\*NOTE:** Section, Part, and Article headings do not appear in the Sections Affected column.\*\*

If you are repealing a Section and adopting a new Section in its place or renumbering a Section to another Section number and replacing the first one with text, the Section number will appear twice. You could list a Section three times depending on the action you are taking. For example, a Section could be repealed, another Section could be renumbered to where the first one was, and then you could amend the renumbered Section. Since only one rulemaking action can appear per line in the second column, the Section number may appear one, two, or three times depending on what you are doing to the Section.

**\*\*NOTE:** Previously repealed, reserved, or renumbered Sections where no text currently appears cannot be amended. You cannot amend what doesn't exist. A previously repealed Section cannot be repealed again unless you have subsequently adopted new text at that Section number.

Agencies shall not renumber Sections where no text currently exists.

b. In the second column, list the rulemaking action you are taking on each Section. **DO NOT** use the term "Adopt" to mean a new Section. You are adopting everything in the rulemaking package; therefore to also use the term to mean a new Section is confusing. The proper terms for each type of action are as follows:

New Section - used when you are adopting all new text at a Section number. This includes new text after a Section has been repealed or renumbered and new text in a previously nonexistent Section.

Amendment - used when you are changing existing text within a Section but not changing the entire text.

Repeal - used when you are changing the entire text of a Section.

Renumber - used when you are changing the Section number. Do not confuse the term “renumber” with the term “relabel”.

List only one rulemaking action per line.

FOR EXAMPLE:

DO NOT WRITE: R1-1-201 Repeal, new Section

DO WRITE: R1-1-201 Repeal

R1-1-201 New Section

Always renumber or repeal a Section first before you place new text in that Section. Therefore, always list a renumbering or repeal in question #1 before you list the same Section as being a new Section.

2. This question asks for the specific statutory authority for the rulemaking, including both the implementing and the authorizing statutes. Please list the authorizing statute or statutes first and, on the next line (one double-space below) the statutes the rules are implementing. Do not change this order and do not try to explain your answer. When you list items that are not requested in this question or when you decide to use a different format than the one specified, you create more work for Office staff who must try to interpret your answer and then list it in the specified form. If we do not interpret this correctly for you, it's your fault for not following directions. If you wish to add additional information to your answer, specify it after the implementing statutes (begin on the line one double-space below the implementing statutes). This could include rules you are implementing or constitutional provisions.
3. In this question, specify the effective date of your rules. This effective date is the same as the interim effective date that was specified in the Notice of Proposed Summary Rulemaking published in the *Register*.
4. List in this question the name and address of a specific person in your agency whom the public can call with questions or comments about the rulemaking. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
5. In this question, explain the rule and your agency's reasons for initiating the rule. This is perhaps the most important question on this Notice. Try to be brief but cover all the issues involved.
6. In this question, show good cause why this rulemaking is necessary to promote a statewide interest if the rule or rules will diminish a previous grant of authority of a political subdivision of this state.
7. In this question, you must give the economic, small business, and consumer impact. Your full statement must also be submitted to the Office for filing but is not published. A summary of that statement is what must appear here. If your summary rulemaking only repeals existing rule language, the economic, small business, and consumer impact statement is not necessary.
8. In this question, you must list the name and address of a specific person in your agency whom the public can call with questions or comments about the accuracy of the economic, small business, and consumer impact. Include the zip code in the address. You should also include a telephone number and, if you list a fax number, the Office will print that for you too.
9. In this question, list the time, place and nature of the proceedings for the adoption, amendment, or repeal of the rules. Some agencies have interpreted this to mean the summary rulemaking process. However, the Office believes the intent of this question was for the agency to list any oral proceedings or hearings on these summary rules. At this point, you will have already held any proceedings you had scheduled.
10. In this question, explain why summary rulemaking is justified.
11. In this question, list any other matters prescribed by statute that are applicable to your agency or to the specific set of rules.

12. In this question, list the material you have incorporated by reference and the Sections in which those incorporations by reference appear.
13. The full text of the rules, which actually begins with a table of contents for the rulemaking, starts on the page following your agency's answer to question #12.

- a. In the table of contents, show the Title, its number, and its heading on the first line approximately one inch from the top of the page. Under the Title, show the Chapter, its number, and its heading. Under the Chapter, show the Subchapter, its label, and its heading, if applicable, or the first Article contained in this rulemaking. its number, and its heading. Under the Article shall be the first Part in the Article involved in the rulemaking, its label, and its heading, if applicable. These shall all be centered on their respective lines. Under the first Article or the first Part of the first Article, shall be the first Section involved in the rulemaking. List all Sections in numerical order under their respective Parts or Articles. **DO NOT list any Section, Part, or Article not involved in this particular rulemaking.** DO list all supplementary material that appears at the end of a Section, a Part, an Article, or the Chapter.

Remember that all Articles and Parts which have Sections undergoing rulemaking in this package must be shown in the table of contents. Do not list any Article or Part which has no Sections undergoing rulemaking unless you are amending the heading of the Article or Part or renumbering the Article or Part.

- b. The full text of the Sections shall begin on the **NEXT PAGE** following the last item in the table of contents. At the top of this page shall appear the first Article and its heading. Then all the Articles, Parts, and Sections involved in this particular rulemaking shall be listed in order. Remember than the Articles, and Parts if applicable, must be shown if one Section within the Article or Part is undergoing rulemaking activity.
- i. If your rulemaking package consists only of entire new Sections, you do not have to underline the text. However, when the rules appear in the Register, you will see the text underlined.
- ii. If your rulemaking package consists only of entire Sections being repealed, you do not have to strike through the text. However, when the rules appear in the Register, you will see the text with strike-outs.
- iii. If your rulemaking package consists of amended Sections or a combination of amended Sections, repealed Sections, new Sections, or renumbered Sections, you must show all changes in the text, including the Section number and its heading. Show new language by underlining the text. Show language being deleted from the rule with strike-outs. The Office prefers the hyphen strike-out but will accept the slash strike-out; however, in the Register we only use the hyphen strike-out.
- d. When you are renumbering entire Sections, show the entire old number with strike-outs and the entire new number with underlining.

FOR EXAMPLE:

DO NOT WRITE: R1-1-102~~3~~

DO WRITE: ~~R1-1-102~~ R1-1-103

Place renumbered Sections in the text at their new number locations.

If the only action being taken on a Section is renumbering of the entire Section and no changes are being made to the text of the Section, show the renumbering and the Section heading. Then list "No change" for each subsection in that Section.

**\*\*NOTE:** When changing one or more letters in a word, strike out the entire word and underline the entire new word. This causes less confusion and will enable the Office to catch all changes when publishing the Register and the Code. (For example, DO NOT WRITE: amendments; DO WRITE: ~~amendments~~ amendment.)



## ARTICLE 9. EXEMPT RULEMAKING

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### R1-1-901. Exempt Rulemaking

- A. Any rule exempted from the provisions of the Administrative Procedure Act and initiated by the agency before September 30, 1992, is not filed with the Office and does not appear in the *Arizona Administrative Code*. Any-one wishing a copy of these early exempt rules must contact the specific agency. For agencies adopting rules under such an exemption, there will actually be two versions of their rules -- one that the agency maintains which contains the exempted rules and one that the Office has that does not contain any of the exempted rules.
- B. Any rule exempted from the provisions of the Administrative Procedure Act and initiated by the agency after September 30, 1992, shall be published in the *Code* if the agency submits the rule in proper format to the Office. These rules shall be submitted as final rules. The notice shall be the same as that specified in Article 6 except that the heading of the notice shall be NOTICE OF EXEMPT RULEMAKING in all capital letters centered on a line approximately one inch from the top of the page.
- C. The Office identifies each Chapter containing exempt rules initiated by the agency after September 30, 1992, by means of an introductory statement specifying the exemption at the beginning of the Chapter and before each Section or Article adopted under an exemption and by specifying the exemption in the Section's historical note. When the Office publishes the *Code* supplements, any Chapter containing rules exempted from the APA by legislation will appear on blue paper. Any Chapter containing rules exempted by other reasons will appear on green paper. Agencies shall specify the reason for the exemption and the specific statutory or other citation authorizing the exemption on the Notice of Exempt Rulemaking.